



Authorized Procurement Personnel for the Following Divisions/Programs:

Centralized Services, Air Guard, STARBASE, DES, Veterans Affairs, Communications, Garrison Command, CFMO, Environmental, Training Center, RTLP, ChalleNGge Program

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INTRODUCTION

GUARDIANS OF THE PUBLIC TRUST

*"Money is of no value; it cannot spend itself.
All depends on the skill of the spender."*

– Ralph Waldo Emerson
1803-1882

This Policy Manual provides guidance in making legal and cost effective procurement of goods and services for Department of Military Affairs (DMA). The majority of the laws cited herein are found in Montana Code Annotated (M.C.A.) 18-1 through 18-8, the "Montana Procurement Act". In addition, a wide variety of laws related to prevailing wages, Workers' Compensation, professional licensing etc. may affect the procurement process and will also be referenced.

OBJECTIVES

1. Provide services and support necessary for Department of Military Employees to be successful in their positions with the department.
2. Ensure compliance with Montana laws, rules, procedures and policies.
3. Ensure fair and equitable treatment of all people who participate in the procurement process.
4. Maximize the procurement value of public funds.

DEPARTMENT OF MILITARY AFFAIRS PROCUREMENT

The Department of Military Affairs oversees all activities of the Army and Air National Guard, Disaster and Emergency Services Division, and provides administrative support to the Veterans Affairs Division, which is administratively attached to the department. The department is administered by the Adjutant General and his staff, as provided for in section 2-15-1202, MCA. The department manages a joint federal-state program that keeps in readiness trained and equipped military organizations for the Governor in the event of a state emergency and the President in the event of a national emergency. Federal agencies control the military strength and mobilization missions of the Montana Guard. The department also plans for and coordinates state responses in disaster and emergency situations (Title 10, Chapter 3, and MCA). The department administers an environmental program for the Army National Guard. The department manages and cooperates with state and federal agencies in providing statewide services for discharged veterans and their families (Title 10 Chapter 2, MCA).

The **DMA, Contracts and Purchasing Officer** procures or oversees the procurement of all supplies and services needed by the department. For additional information or assistance, please call Department of Military Affairs (DMA), Centralized Services Division (CSD), Contracts and Purchasing Officer at (406) 324-3331.

AUTHORITY

During the early 1900's the Legislature recognized the need to establish controls on the spending of state funds. The result was a set of guidelines and a controlling agency. M.C.A. 18-4-221 stipulates that unless specifically provided by another law, the Department of Administration (D of A) shall "procure or supervise the procurement of all supplies and services needed by the state..."

DMA, CSD Procurement and Contracting has applied for and received additional authority to purchase:

Expenditure authority of \$25,000 for most supplies and services. With the delegated authority the agency is assigned responsibilities and requirements. These responsibilities and requirements are the result of various laws, rules and procedures which agencies are required to follow. This policy manual discusses those laws, rules and procedures.

Purchases Made by Agencies-Delegated Authority When an agency wishes to purchase an item that is not a "controlled" item and the estimated cost is within the agency's delegated purchasing authority, the agency may proceed to procure the item according to the procedures outlined in this manual.

DMA is required to follow the guidelines for purchasing outlined in Title 18, chapter 4, MCA, and in Title 2, chapter 5, ARM. In addition to these statutes and rules, each department must adhere to the terms and conditions described in the Procurement Delegation Agreement between the agency and the General Services Division/program.

GENERAL GLOSSARY TERMS TO KNOW

Agency: The Department of Military Affairs is the agency referred to in this policy manual.

All-or-None Bid: A bid submitted for a number of different items, services, etc., in which the bidder/offeror indicates it will not accept a partial award, but will accept only an award for all of the items, services, etc., listed in the invitation for bid. Such bids are acceptable only if specifically allowed for in the invitation for bid or if the bidder quoted an individual price for each of the items, services, etc., as listed.

Alternate Procurement Method: A method of procuring supplies or services in a manner not specifically described in law, but instead authorized by the Department of Administration (DOA), General Services Division (GSD) under section 18-4-302, MCA, following the requirements of section 18-4-122, MCA. Contact CSD Procurement and Contracting for processing.

Authorized Purchasing Personnel: All purchases over \$5000 must be processed by agency authorized personnel. For all purchases and contracts for the Air Guard, CSD, STARBASE, DES, VA and Communications programs the CSD, Purchasing Contract and Purchasing Officer is the authorized procurement official. The agency Garrison Command Contracts Manager in Helena is authorized to do the purchasing and contracting for the Garrison Command programs and the Purchasing Agent in Dillon is authorized to do purchasing and contracting for the Challenge program. The CSD, Contract and Purchasing Officer will have oversight of all agency procurements and is the agency liaison for all procurements with the Department of Administration.

Award: The presentation of a purchase order and/or contract to a vendor.

Best Interests of the State: The rationale granting a procurement official discretion in taking action most advantageous to the State when it is impossible to delineate adequately a specific response to law or rule.

Bid: A competitive offer made by an intended bidder, usually in reply to an Invitation for Bid (IFB).

Bidder: Any person submitting a competitive bid in response to an invitation for bid solicitation.

Bidders List - Vendors List - Central Bidders List: A list maintained by the General Services Division providing the names and addresses of vendors of various supplies and services from whom bids or proposals may be solicited.

Bid Opening: The formal process through which bids are opened and the contents revealed for the first time to the State, other vendors, and to the public.

Bid/Proposal Security: A guarantee in the form of security identified in section 18-4-312, MCA, that the bidder/offeror, if selected, will accept the contract as bid; otherwise the bidder or their guarantor will be liable for the amount of the bond or deposit.

Boilerplate: Standard clauses and requirements incorporated into contracts (bid forms and purchase orders) which are derived from laws, or administrative procedures of state government.

Brand Name or Equal Specification: A description that references each brand name commercial product known to be acceptable and/or current manufacturer, and that specifies the essential requirements and salient characteristics considered necessary to ensure that the brand name or equal products offered will satisfy the end use application.

Competition: The process by which multiple vendors vie to secure the business of a purchaser by offering the most favorable terms as to price, quality, delivery and/or service.

Competitive Sealed Bidding: The submission of sealed prices by individuals or firms competing for a contract, privilege, or right to supply merchandise or services.

Competitive Sealed Proposal: A formal request to a potential offeror to submit a proposal to provide a solution to a problem or a need that an agency has identified. An RFP is also a procurement process where the State has the ability to judge if an offeror's qualifications, experience, and approach will provide the best solution to the State's needs.

Contract Performance Security: A contract of guarantee, executed preceding award, by a successful vendor to protect the government from loss due to the vendor's inability to complete the contract as agreed.

Controlled Item: Those supplies and services identified by the General Services Division as commonly used items which, when consolidated for purchasing purposes, result in volume adequate to obtain discounted prices. These items are purchased through Requisition Time Schedules, Exclusive Term Contracts, Print Services and Central Stores.

Cooperative Purchasing: The combining of requirements of two or more political entities in order to obtain the benefits of volume purchases and/or reduction in administrative expenses. Defined in Montana law in section 18-4-401, MCA.

Design Specification: A purchase specification setting forth the essential characteristics that an item bid must possess to be considered for award and so detailed as to describe how the product is to be manufactured. See "performance specification".

Exclusive: When a term contract is awarded as an "exclusive" term contract, agencies are *required* to purchase from the listed term contract holder.

Exigency: A purchase made without following normal purchasing procedures due to a sudden and unexpected happening or unforeseen occurrence/condition which requires immediate action.

Free on Board (F.O.B.) Destination, Freight Prepaid: A shipping term defining the point at which the State takes legal title to the supplies purchased. This term indicates that the seller pays the freight charges, owns the goods in transit, and files all claims for damages as necessary.

Invitation for Bid: All documents, whether attached or incorporated by reference, utilized for soliciting formal, sealed bids.

Late Bid/Proposal: A bid or proposal which is received at the place designated in the Invitation for Bid or Request for Proposal after the deadline established by the IFB or RFP.

Letter of Credit: Security issued by a bank or savings and loan association for a specific time period to ensure performance of a contract.

Limited Solicitation: An informal method of purchasing which does not require sealed bids or proposals but does require documented competition for non-controlled items. This method is defined in ARM 2.5.603.

Multiple Awards: The award of contracts to multiple vendors for the same or essentially similar items in situations where the award of a single contract would be impractical.

Non-Exclusive: When a term contract is awarded as a "non-exclusive" term contract, agencies are not required to purchase from the listed term contract holder. The method of procurement is then dependent upon the total dollar amount.

Non-Resident Bidder: A bidder whose residence is not in this state as determined under section 18-1-103, MCA. See "Resident Bidder".

Non-Responsive Bid/Offer: A bid or offer that does not conform to the essential requirements of the Invitation for Bid or Request for Proposal; nonconforming bid/offer; unresponsive bid/offer.

Offer: The act of one person that gives another person the legal power to create a contract to which both of them are parties; to perform such an act.

Offeror: A seller who is offering a response to a Request for Proposal.

Performance Specification: A specification describing the performance characteristics sought in a product or service; a purchase description accenting performance over design; a functional rather than a generic or physical specification. See "Design Specification".

Procurement: The acquisition with or without cost, buying, purchasing, renting, leasing, or otherwise acquiring any supplies or services. It includes all functions that pertain to obtaining any supply or service, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration. It does not include the acquiring of supplies or services by gift.

Proposal: The executed document submitted by an offeror in response to a Request for Proposal (and the basis for subsequent negotiation).

Proposal Security: A guarantee in the form of security identified in section 18-4-312, MCA, that the bidder/offeror, if selected, will accept the contract as bid; otherwise the bidder or their guarantor will be liable for the amount of the bond or deposit.

Protest: A complaint about a state action or decision brought by a vendor or a contractor to the appropriate administrative section with the intention of achieving a remedial result.

Purchase Order (PO): A state contract document to formalize a purchase transaction with a vendor. A purchase order contains statements as to the quantity, description, and price of the supplies or services; applicable terms for payments, discounts, dates of performance, transportation terms, and all other factors pertinent to the purchase and its execution by the vendor.

Reciprocal Preference: The State of Montana applies a reciprocal preference against a vendor submitting a bid from a state or country, which grants a residency preference to its resident businesses. A reciprocal preference is only applied to an invitation for bid for supplies or an invitation for bid for non-construction services for public works as defined in section 18-2-401(9), MCA, and then only if federal funds are not involved.

Rejected Bid: Bids that do not meet the requirements set forth in the Invitation for Bid.

Request for Proposal (RFP): A formal request to a potential offeror to submit a proposal to provide a solution to a problem or a need that an agency has identified. An RFP is also a procurement process where the State has the ability to judge if an offeror's qualifications, experience, and approach will provide the best solution to the State's needs.

Requisition: A form used to request the CSD, Procurement and Contracting and or DOA General Services Division to purchase supplies or services on behalf of the requestor/end user.

Requisition Time Schedule (RTS): A schedule issued by the State Procurement Bureau and the Central Stores Program each year which designates the dates that requisitions for various controlled items must be submitted during the next calendar year.

Resident Bidder: A bidder who meets the requirements of section 18-1-103, MCA. Do not assume that a bidder with an address within the State of Montana qualifies as a resident bidder.

Responsible Bidder/Offeror: Means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance.

Responsive Bidder/Offeror: Means a person who has submitted a bid or offer which conforms in all material respects to the invitation for bids or requests for proposals.

Restrictive Specification: A specification that unnecessarily limits competition by eliminating items that would be capable of satisfactorily meeting actual needs.

Salvage: Property that is no longer useful as a unit in its present condition but has some value in addition to its value as scrap.

Scrap: Property that has no reasonable prospect of being sold except for the value of its basic material content.

Sealed Bid: A bid submitted in a sealed envelope to prevent dissemination of its contents before the deadline for the submission of all bids; or a facsimile submission in response to an Invitation for Bid that will meet the criterion of "sealed" in a legal sense if the transmission is secured by the procurement office.

Service Contract: Means the furnishing of labor, time or effort by a contractor. The term does not include, those professions listed in section 18-4-132, MCA, employment agreements or collective bargaining agreements, the provision of human services administered by the Department of Public Health and Human Services, or services related to construction contracts.

Small Purchase: Any procurement not exceeding the amount established by ARM 2.5.603 which may be made in accordance with small purchase procedures established by the Department of Administration.

Sole Source: An award for a commodity or service to the only known capable vendor, occasioned by the unique nature of the requirement, the vendor, or market conditions.

Specifications: A description of what the purchaser seeks to buy, and consequently, what a vendor must be responsive to in order to be considered for award of a contract. A specification may be a description of the physical or functional characteristics, or the nature of, a supply or service. It may include a description of any requirements for inspecting, testing, or preparing a supply or service item for delivery.

Standard: A characteristic or set of characteristics for an item that, for reasons of performance level, compatibility or inter-changeability with other products, etc., is generally accepted by producers and by users of the item as a required characteristic of all items for the designated purpose.

Supplies: All property, except as otherwise provided by law, including but not limited to equipment, materials, printing, and commodities, and excluding land or any interest in land.

Surplus Supplies: Supplies no longer needed by an agency for its use in the discharge of its duties and responsibilities, excluding books.

Tabulation of Bids: The recording of bids and bidding data that was submitted in response to a specific invitation for the purpose of comparison, analysis, and record keeping.

Term Contract: A contract in which a source or sources of supply are established for a specific period of time at a predetermined unit price.

Total Contract Value: The value of a contract during the initial contract period and any subsequent options to renew.

Trade-In: The process of using a state owned item of merchandise as payment or partial payment for the purchase of other merchandise. Generally, prior approval by DOA Property and Supply Bureau is needed.

Unit Price: The price of a selected unit of a good or service; e.g., price per ton, per foot, per dozen, per box, etc.

Vendor: A person or business who offers or may offer supplies or services to a public agency.

Vendor Quote Group: A numerical system used by the General Services Division to reference and identify like groups of supplies or services.

PROCUREMENT RESOURCES

Authorized Purchasing Personnel: All purchases over \$5000 must be processed by agency authorized personnel. For all purchases and contracts for the Air Guard, CSD, STARBASE, DES, VA and Communications programs the CSD, Contracts and Purchasing Officer is the authorized procurement official. The agency Garrison Command Contracts Officer in Helena is authorized to do the purchasing and contracting for the Garrison Command programs and Purchasing Agent in Dillon is authorized to do purchasing and contracting for the Challenge program. The CSD, Contracts and Purchasing Officer will have oversight of all agency procurements and is the agency liaison for all procurements with the Department of Administration.

Montana Law/Administrative Rules Montana law governing state procurement is contained in Title 18, Montana Code Annotated, and is located at the following website address: <http://mt.gov/doa/gsd/procurement/procurementlawrulespolicies.asp>. The administrative rules governing state procurement are contained in Title 2, chapter 5, Administrative Rules of Montana, and are posted at the following website address: <http://mt.gov/doa/gsd/procurement/procurementlawrulespolicies.asp>.

Purchasing Users Group The General Services Division also hosts quarterly Purchasing Users Group meetings as a means of providing agencies with procurement training and updated information concerning advances and changes in procurement law and procedures. Notification of these meetings is made through the “GSD Update” newsletter as well as by e-mail notification to the Purchasing mailing list.

“GSD Update” Quarterly Newsletter General Services Division publishes a quarterly newsletter entitled “GSD Update” to keep state agencies abreast of new developments in the procurement field. Current and back issues of the newsletter are posted on the division’s website under “Quarterly Newsletter.”

PROCUREMENT ETHICS

As employees involved in the expenditure of public funds, we are called upon to avoid even the appearance of impropriety and to conduct our business in a manner above reproach in every respect. For more specific information on this topic, please refer Title 2, chapter 2, MCA, or consult with a legal advisor.

BUYING "GREEN"

What Is Environmentally Preferable Procurement (EPP)?

Environmentally Preferable Procurement (EPP) is a process for selecting products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. In the simplest terms, EPP means adding environmental considerations to purchasing decisions along with such traditional factors as performance, price, health, and safety.

EPP considerations include:

- durability
- energy and water efficiency
- remanufactured parts and recycled content
- ability to reuse or recycle
- existence of harmful or dangerous chemicals.

The EPP process builds on these single attributes and encourages purchasers to examine multiple attributes such as energy efficiency **and** recycled content **and** toxicity **and** the use of renewable resources **and** other environmental attributes. The mix of attributes will depend on the specific product or service being evaluated.

BASIC PROCUREMENT INFORMATION

Purchasing from Sheltered Workshops Sheltered workshops are located throughout Montana. These workshops are non-profit businesses incorporated under the laws of the State for the purpose of providing vocational services to disadvantaged individuals. Numerous supplies and services are available to state agencies from the workshops. Services range from bulk mailing to janitorial work; products range from pallets to duffle bags.

Montana law exempts these purchases from the competitive bidding laws and allows them to be made directly by the agencies.

The State Procurement Bureau maintains a list of Sheltered Workshops located in the state, including the products and services provided by each. It can be accessed on the General Services Division website at <http://www.gsd.mt.gov/procurement>, or by calling the Department of Military Affairs, Contracts and Purchasing Officer at 324-3331 or State Procurement Bureau at 444-2575 for more information.

CONTROLLED SUPPLIES – PRIOR APPROVAL

Why Prior Approval Is Required By statute, agencies are required to obtain approval on certain supplies and services before they are purchased. The approvals are required whether they are purchased through the General Services Division or at the agency level. Specific statutes listed below.

These approvals must be obtained **prior** to a purchase being made or a solicitation being sent to vendors. Contact the CSD Contracts and Purchasing Officer who will secure these approvals.

When Prior Approval Is Required Contact Authorized Purchasing Personnel for prior approval of the following supplies and services:

1. **All printing-related equipment involving duplicating, printing, bindery, and graphic arts equipment to be used within a 10-mile radius of the capitol area.** Approval by the Print and Mail Services, General Services Division, Department of Administration, is required. (Mont. Code Ann. § 2-17-301.)
2. **Information technology resources, including hardware, software, and associated services and infrastructure used to store or transmit information in any form, including voice, video, and electronic data.** Approval from the Information Technology Services Division, Department of Administration, is required. (Mont. Code Ann. § 2-17-512.)
3. **Records management equipment or systems.** Approval by the Information Technology Services Division, Department of Administration, is required. (Mont. Code Ann. § 2-6-214). **This includes file cabinets.**

4. **Mail equipment to be used within a 10-mile radius of the capitol area.** Approval by Print and Mail Services, General Services Division, Department of Administration, is required. (Mont. Code Ann. § 2-17-301.)
5. **Filing systems and microfilm equipment.** Approval by Records Management Bureau, Secretary of State's Office, is required. (Mont. Code Ann. § 2-6-203.) **This includes file cabinets.** Contact the CSD Contracts and Purchasing Officer for information before purchasing this type of equipment
6. **Surplus property trade-ins, used equipment, purchase of surplus equipment from other governmental entities.** Approval by the Property and Supply Bureau, General Services Division, Department of Administration, is required (Mont. Code Ann. § 18-4-226, ARM 2.5.701 and 2.5.702.)

CONTROLLED ITEMS – Requisition Time Schedule

The Concept Behind Controlling Certain Items Purchasing is one of the few government functions cutting widely across agency lines -- a function with the primary mandate to conserve public funds. One component of protecting the tax dollar is to centralize the procurement of “common-use” supplies and services through statewide contracts.

While the DOA General Services Division delegates authority to state agencies to make some purchases, major areas of these “common-use” supplies and services are “controlled” by the Division due to the expertise required and the need to ensure the greatest level of competition through the power of volume purchasing. Therefore, purchase of “controlled” items, other than Central Stores purchases under \$5000, must be made through the CSD Contracts and Purchasing Officer and coordinated with the DOA, General Services Division.

Controlled items may be obtained through the Division/program in these ways: **(1) Requisition Time Schedules; (2) Exclusive or Non-Exclusive Term Contracts; (3) Central Stores; (4) Printing; (5) Vehicles; or (6) Cooperative Purchasing.**

Requisition Time Schedule (RTS) The Requisition Time Schedule is a calendar of dates on which requisitions for certain items are due from the CSD Contracts and Purchasing Officer or State Procurement Bureau. Currently, automobiles, trucks, and the renewal of current janitorial contracts are purchased through an RTS schedule.

To purchase an item on the RTS, the requestor must prepare a requisition form requesting that the item be purchased. The requisition must be forwarded to the CSD Contracts and Purchasing Officer in time to meet the deadline set for that specific commodity.

TERM CONTRACTS – D of A, GSD Contracts/Procurements

Term Contracts Term contracts are contracts established by the State Procurement Bureau for high-use supplies and services for a predetermined price, for a specific period of time. This type of contract offers the advantages of volume purchasing, yet does not require agencies to stockpile or warehouse supplies.

"Exclusive" and "Non-Exclusive" Term Contracts Term contracts are either issued as "exclusive" or "non-exclusive." If a contract is issued as an "exclusive term contract," agencies are *required* to purchase from one of the listed term contract holders. Other term contracts are "non-exclusive" meaning that agencies have the option of using a "non-exclusive" term contract or contracting elsewhere for the item or services following procurement procedures. Agencies need to look carefully at each contract to determine in which manner the contract was awarded.

Agencies are responsible for any payment to an exclusive term contract holder due to agency violation of the term contract.

Purchasing from Term Contracts To purchase from term contracts, contact the agency authorized procurement officer for assistance if over agency delegation amount CSD Contracts and Purchasing Officer will process procurement. Orders will be sent directly to the vendor by issuing a DMA purchase order or utilizing the state's procurement card. The vendor will ship the merchandise to the delivery address provided and supply an invoice, which should also note the term contract number.

The State Procurement Bureau publishes a list of all term contracts semi-annually. This list is posted on their website at <http://gsd.mt.gov/procurement>.

Central Stores The Property and Supply Bureau of the General Services Division operates a Central Stores program on behalf of the State. The Central Stores program develops standard specifications, procures, warehouses and delivers certain common use items (office supplies, fine paper, coarse paper, computer paper, janitorial supplies) to state agencies. Central Stores is effective in cutting state costs by purchasing large volumes of items with common specifications, and having these items delivered to a single central location. Like term contracts, the Central Stores program allows state agencies to take advantage of volume pricing while avoiding the need to stockpile items.

Central Stores publishes a catalog of the products they stock and agencies are **required** to purchase items considered to be "office supplies" through Central Stores, unless, the desired product is available at a lower cost from another source and conforms in all material respects to the terms, conditions and quality offered by the Central Stores program. The current Central Stores catalog contains a specific item by item listing of office supplies.

State agencies are required to purchase items from the Central Stores catalog unless the desired product is available at a lower cost from another source and conforms in all material respects to the terms, conditions and quality offered by the Central Stores program.

Printing Print Services of the General Services Division operates a printing program on behalf of the State and has the exclusive authority to contract for all printing. It is responsible for providing this service by operating a central duplicating facility, three quick copy centers, and procuring printing from the commercial sector. Nearly 65% of the printing expenditures are procured through commercial vendors. Print Services determines whether to produce the documents internally or procure them commercially based on many factors including complexity, delivery and cost.

Vehicles Twice per model year, the State of Montana issues bids for passenger cars and light duty trucks (up to 1 ton). In general, the two dates for passenger car and light duty trucks are set for the first week in September and February.

The CSD Contracts and Purchasing Officer will notify all DMA division/programs of upcoming vehicle calls. Pre requisition forms will be furnished upon request to aid in vehicle selection. To order a vehicle, contact the Authorized Purchasing Personnel for assistance in completing a requisition for purchasing desired vehicle prior to submittal to General Services of the Department of Administration.

In cases where funding availability is uncertain at the time of the vehicle call, requisitions may be submitted with the notation “**Dependent Upon Available Funds**” This will secure a price for the desired vehicle and the decision to purchase can be made after the bids are let.

Cooperative Purchasing By law, Montana's political subdivision/programs may purchase supplies and services in cooperation with the State of Montana. Section 18-4-402, MCA, permits local governments and school districts to take advantage of the cost savings realized by the State's volume purchasing. Local governments may benefit by purchasing from State term contracts, vehicle requisition time schedule, Central Stores and printing services.

PROCUREMENT OF ITEMS/SERVICES UNDER \$5000

In order to determine **who** does the procurement of items or supplies needed by the DMA it is necessary to determine the "Total Contract Value" of the item/service being procured. If determined to be under \$5000 the division/program can procure the item according to established procedures as detailed herein. Which method used is determined by the **"total contract value"** of the item or service desired.

Definition: Total Contract Value (for commodities) is the total dollar amount of the products purchased, generally based on annual requirements.

Example (hypothetical): "AA" Batteries

The individual cost of "AA" batteries may be as low as \$.72 each. Theoretically a field office could buy 694 of these batteries and stay below the \$500 limit for small purchases and just go out and buy them without going through a limited solicitation process. **BUT**, as an agency we know our annual requirements for "AA" batteries is in the thousands and the cost of these batteries on an annual basis far exceeds the dollar limits delegated to the field for purchases. It is for this reason the "AA" batteries are bid out on an annual contract.

Definition: Total Contract Value (for services) is the total dollar amount of the contract including renewals.

Example: Janitorial Contract

THE Authorized Purchasing Personnel is asked to bid out a janitorial contract. The annual cost of the contract is expected to be \$13,000.00 a year. This annual dollar amount allows the Authorized Purchasing Personnel to utilize the limited solicitation procedure which has a limit of \$25,000.00 as long as the contract will be for one year only with no renewals. In most cases the requesting office would prefer to have a renewal clause included so they have the option of just renewing the contract instead of having to re-bid it each year. When the renewal clause is added (say one annual renewal for a total of two years) the total contract value is now \$26,000.00. This exceeds the amount allowed under the limited solicitation process. Now the process has to be an Invitation for Bid (IFB). This changes the entire process and the requirements necessary. A few of the changes would be the inclusion of prevailing wage rates and mandatory posting of the IFB on the D of A webpage for bid listings.

Small Purchases: Purchases under \$5000

Section 18-4-305, MCA **Small purchases and limited solicitations states:** "Any procurement not exceeding the amount established by rule may be made in accordance with small purchase or limited solicitation procedures established by the department. ***Procurement requirements may not be artificially divided so as to constitute a small purchase or limited solicitation under this section.***"

DMA division/programs are authorized to make purchases up to \$5000 as indicated below.

1. Purchases may be made without bid documentation; however, comparison shopping should be done.
2. Purchases should be carried out with various vendors on a rotating basis if similar pricing, service and expertise are available (Continually doing business with one particular

parts supply, office supply, grocery store, etc., to the exclusion of others will result in adverse public relations).

3. Purchases shall be made by DMA personnel authorized to expend state funds.
4. Payment requires a stamped, coded and approved invoice be submitted to CSD. Vendor tax identification number needs to be provided to CSD in order for vendor to be paid.

DMA employees are encouraged to utilize the Limited Solicitation, explained below, Telephone or Written Quote process for commodities that are competitively priced in the general market.

Limited Solicitation

This procedure requires documentation of a minimum of three written or oral vendor quotations. The limited solicitation procedure, if used for purchases over \$5000, must be documented using the "Limited Solicitation" form, available on our website at <http://mt.dma.gov/> and, wherever practical, using the State Vendors List. This procurement method does not apply to "controlled items" such as the RTS, Term Contracts or Central Stores. If unable to locate three viable vendors to solicit, search documentation must be included in the procurement file.

Payment requires a stamped, coded and approved invoice with vendor information and tax identification number be submitted to CSD. A copy of the completed Limited Solicitation Quote tabulation sheet shall be submitted to the CSD with approved invoice.

Questions and Answers on Limited Solicitation

Prepared by the State Procurement Bureau – Department of Administration

1. **What is the purpose of limited solicitation?** Limited solicitation provides state agencies with a tool to procure low cost items in an expedited manner. This method can be used for both supplies and services up to \$25,000. (By administrative rule, the State Procurement Bureau (SPB) does not require competition for purchases under \$5,000.)
2. **What are the required procedures?** Agency personnel must obtain a minimum of three viable quotes, if available. Quotes can be oral, written, faxed, or e-mailed. Agencies must use Limited Solicitation Forms, available on our website at <http://mt.dma.gov/> (for DMA procurements use agency forms on the agency web site) Documentation is required, including vendors contacted, quotes received, complete product description and/or service requirements, and all award conditions (e.g., delivery requirements, sole brand, and packaging). If the purchase is over \$5000 and based upon "sole brand," a "Sole Brand" Procurement Justification Form, available on the above-listed websites, is also required as documentation for the purchase. The contract must be awarded to the lowest acceptable quote if cost is the only consideration.
3. **Can factors other than cost be used?** Yes. It is allowable to use criteria other than cost (e.g., qualifications, available staff, references, etc.) in making an award. Vendors must be provided with all the criteria and their relative importance. The evaluation criteria must be completed prior to accepting responses. This method of limited solicitation must be done in writing.
4. **What does "viable quote" mean?** It means asking appropriate/responsible vendors for quotes.
5. **What if three vendors are not available?** This may happen occasionally. If three are not available, include a short explanation why. Remember, you have to justify how you selected your vendors, so use good judgment.
6. **Is it okay to fax a quote page to vendors rather than calling each one?** Yes. This may be more time efficient than calling because all of your conditions will be in writing with less chance for misinterpretation.
7. **What if I estimate the product to be under \$5,000, and all quotes come in above \$5,000?** If the lowest acceptable quote is significantly higher than anticipated, make no award and contact the appropriate agency purchasing official they will process the procurement.

PROCUREMENTS IN EXCESS OF \$5000

All purchases over \$5000 must be processed by agency authorized personnel. For all purchases and contracts for the Air Guard, CSD, STARBASE, DES, VA and Communications programs the CSD, Contracts and Purchasing Officer, Sally Byrd is the authorized procurement official. The agency Garrison Command Contracts Officer, John Horn is authorized to do the purchasing and contracting for the Garrison Command programs and Purchasing Agent, Cliff Beil, is authorized to do purchasing and contracting for the Challenge program. The CSD, Contracts and Purchasing Officer will have oversight of all agency procurements and is the agency liaison for all procurements with the Department of Administration. Procurements over agency delegated authority are prepared by the agency authorized personnel and are reviewed and submitted to the Department of Administration by the CSD, Contracts and Purchasing Officer.

SUBMITTING A REQUISITION

When It Is Necessary When a division/program requests the assistance of the Authorized Purchasing Personnel in making a purchase, the receipt of a completed and signed field requisition is necessary before work can begin on the project. Required for all purchases and contracts over \$5000.00. The field requisition is an internal document used to authorize the expenditure of funds and communicate the needs of program/division for the item or service being procured. Field Requisition forms are available on our website at <http://mt.dma.gov/>

A completed field requisition form will need to be submitted to the authorized procurement official to initiate the procurement of any item or contract. Contact the Contracts and Purchasing Officer for assistance with any procurement forms or issues at 324-3331.

What Should Be on It

The field requisition must contain as much information as possible. At a minimum, the requisition must contain:

- ✓ A brief description of the item/service being procured
- ✓ The contact person and a phone number
- ✓ Detailed specifications of the item/service being procured (specifications need to be e-mailed to the procurement official in addition to hard copy being attached to the field requisition);
- ✓ Funding for the project or item, specify if funding is federal;
- ✓ A list of any special instructions such as special ship-to, date item is needed in house, etc.; and
- ✓ A list of suggested vendors.
- ✓ Sole source and/or sole brand documents relevant to the purchase
- ✓ Detailed scope of work statement

Providing this information on the requisition will expedite work on the project.

Requestor Responsibilities

Once the procurement official or if purchase is under \$5000 and the division/program has procured the goods, needed by the agency it is necessary for the requestor to account for the goods. State agencies have 30 days from the receipt of a properly executed invoice to issue payment to the vendor MCA 17-8-242.

Requestor responsibilities include:

- receiving deliverables
- ensuring that correct items and correct amounts are received according to Purchase Order
- requesting purchase order adjustments if needed
- inspecting deliverables and signing any receiving documents,
- receiving vendor invoices, verifying charges match purchase order allowed charges, coding documents and submitting to CSD for payment
- Ensuring the proper use and maintenance of property received
- Responsible for contacting CSD for asset management requirements and to ensure insurance compliance
- Responsible for informing CSD of property transfers, property loss or damages,
- Accounting of equipment/goods/supplies when requested

CONTRACTS

All procurement policies and spending limits apply to service contracts. If over \$5000 DMA requestor to submit completed Field Requisition to authorized purchasing officer for processing. Workers' compensation insurance or proof of an exemption (Independent Contractor Exemption) and proof of insurance is required on all state service contracts: as well as pre-approval by the agency Personnel Officer.

Acceptable forms to document workers' compensation coverage are: (1) a proof of insurance form supplied by the Montana State Fund; or (2) an "Acord" Certificate of Insurance form. Proof of an independent contractor exemption must be on the form furnished by the Montana Department of Labor and Industry entitled "Certificate of Independent Contractor Exemption," or in the case of out-of-state contractors, a similar form issued by their home state. Corporate officers must provide some documentation of their exempt status.

DO NOT BEGIN ANY SERVICE until the contract has been approved, all signatures affixed, and proofs of insurance, certifications, and licenses are received.

CONTRACTS WITH A "TOTAL CONTRACT VALUE" OF UNDER \$5000

For personnel service contracts less than \$5000.00 DMA employees have the option of contracting directly with a vendor that can provide the services and must utilize the agency personal services contract template available on our website at <http://mt.dma.gov/> **All personal service contracts must have a contract log number on them and must have completed contract pre-approved by authorized purchasing personnel and agency personnel officer. This is "pre-approval" prior to services being provided.** DMA employees are encouraged to utilize the Limited Solicitation Telephone or Written Quote process for services that are competitively priced in the general market.

Section 18-4-305, MCA **Small purchases and limited solicitations states:** "Any procurement not exceeding the amount established by rule may be made in accordance with small purchase or limited solicitation procedures established by the department. ***Procurement requirements may not be artificially divided so as to constitute a small purchase or limited solicitation under this section.***"

DMA division/programs are authorized to enter into service contracts up to \$5000 as indicated below. "Total Contract Value" is used to determine if contract is under \$5000.

1. Contracts may be made without bid documentation; however, comparison shopping should be done.
2. Contracts should be carried out with various vendors on a rotating basis if similar pricing, service and expertise are available (Continually doing business with one particular vendor to the exclusion of others will result in adverse public relations).
3. Contracts shall be initiated by personnel authorized to expend state funds.
4. Payment requires a contract (with a contract log number) and a stamped, coded and approved invoice with vendor information and tax identification number submitted to CSD.

5. All service contracts require a contract log number. Obtain log number from Contracts and Purchasing Officer, Sally Byrd, 324-3331 or e-mail at sbyrd@mt.gov. Number will be assigned after approval of contract form and receipt of Workers Compensation / Independent Contractor Exemption and insurance documentation.

For contracts under \$5000 the originating division/program is responsible for obtaining contract signatures, monitoring the performance of the contract and insuring contract payment. Contracts under \$5000 do not require legal signature.

CONTRACTS WITH A "TOTAL CONTRACT VALUE" OVER \$5000

All service contracts over \$5000 must be processed by agency authorized purchasing personnel. For all purchases and contracts for the Air Guard, CSD, STARBASE, DES, VA and Communications programs the CSD, Contracts and Purchasing Officer is the authorized procurement official. The agency Purchasing Agent in Helena is authorized to do the purchasing and contracting for the Garrison Command programs and the Purchasing Agent in Dillon is authorized to do purchasing and contracting for the Challenge program. The CSD, Contracts and Purchasing Officer will have oversight of all agency procurements and is the agency liaison for all procurements with the Department of Administration.

A completed field requisition form needs to be submitted to the authorized procurement official to initiate the procurement of any item or service contract over \$5000. Field Requisition forms are available on our website at <http://dma.mt.gov/> Contact the CSD Contracts and Purchasing Officer for assistance with any procurement forms or issues at 324-3331.

Agency Authorized Purchasing Personnel will assist DMA personnel with scope of work statements for personnel service contracts.

For contracts over the agency delegation the D of A is responsible for obtaining contract signatures, monitoring the insurance and contracting requirements and processing addendums for renewals or changes in the contracts. D of A agency liaison is the CSD, Contracts and Procurement Officer all request for changes need to be processed through the authorized procurement official and then forwarded to the liaison.

CONTRACT ROUTING

Personal service contracts for over \$5000 will be approved for contract form by the CSD Contracts and Purchasing Officer, DMA CSD Personnel Officer and will then be routed to programs/divisions for approval signatures from legal, division/program, contractor and any other required signatures.

When contracts are routed for signature a contract routing log will be utilized as well as a folder designated as a "procurement signature required folder" consistent in color and size.

CONTRACT APPROVALS

CSD Contracts & Purchasing Officer and Personnel Officer confirms procurement/contracting laws and rules have been followed, funding is available, required documentation is included in

procurement file and that the end product/service (who-what-when and where) are adequately discussed. CSD will then forward the documents to Legal.

Legal verifies legal content and then forwards the contract to the program/division administrator for approval.

Division/program Administrator (or designee) confirms Legislative intent, availability of funds, editing/proof reading and that the "Scope of Work" will produce the desired objective/results. The division/program administrator will then forward the documents back to the procurement official.

Once CSD, Legal, division/program administrators have initialed the contract, it is returned to the CSD Contracts and Purchasing Officer for submittal to the contractor. The contractor will sign the document and return it to the Contracts and Purchasing Officer. When received back from the contractor the CSD Contracts and Purchasing Officer will forward copies to the requestor and others needing a copy.

CONTRACT ENFORCEMENT BY CONTRACT LIAISON- PROGRAM/DIVISION

As state employees, we can spend an inordinate amount of time putting out the perfect solicitation and writing iron-clad contracts. But as we have all learned all too well, all of that effort can be for naught if the performance of a contract is not enforced. Just as a chain is only as strong as its weakest link, a contract can only be as strong, as successful, as its administration. Therefore, we need to place tremendous emphasis on effective contract administration.

A contract liaison, typically the requestor or other individual from the program/division, is to be assigned to each contract. **On a day-to-day basis, DMA contract liaisons need to be monitoring contract performance since early detection and correction of nonperformance is critical for the success of the contract.** Contract liaison is responsible for:

- receiving contract deliverables
- monitoring the duration of the contract,
- ensuring that insurance and security documents are current and in effect for the duration of the entire contract period,
- requesting contract renewals, amendments
- ensuring that contract deliverables are completed and meet requirements
- inspecting contract deliverables and sign any completion documents,
- receiving contractor invoices, coding documents with vendor information and tax identification number submitting to CSD for payment
- ensuring the proper use and maintenance of receivables
- responsible for contacting CSD for asset management requirements and to ensure insurance compliance of deliverables
- responsible for informing CSD of property transfers, property loss or damages,
- Accounting of equipment/goods/supplies when requested

Contract enforcement means paying attention to things like:

- ✓ Are deadlines being met?
- ✓ Are deliverables coming in at the level of standard anticipated in the contract?
- ✓ Are payments being made according to contract provisions?
- ✓ Are contract modifications being made that are well-documented and comprehensive?
- ✓ Are problems being addressed as soon as they are perceived?
- ✓ Is the agency meeting regularly with the contractor to assure good communication?
- ✓ Does the contractor understand exactly what is expected?
- ✓ Is it time to terminate the contract?
- ✓ Is work being verified as to its completeness?
- ✓ Are checklists being used to communicate contract progress?
- ✓ Are progress reports coming in as required?
- ✓ Is it time to get an attorney involved?
- ✓ Is the State meeting *its* contractual obligations?

Documenting Contract Performance Deficiencies

When problems or deficiencies arise during the performance of a contract, it is imperative to compile a record of events to insure proper documentation exists in the event a solution cannot be reached and the contract will be terminated. This documentation will be the evidence and become the basis for DMA's defense in the event a contractor decides to protest the contract termination or in some instances sues the DMA for the contract termination.

What type of problems need to be documented? Any and all deficiencies or breaches of a contract need to be documented.

When should the documentation begin? The documentation should begin immediately upon discovery of any deficiencies or breaches of a contract.

What should the documentation consist of? The documentation should list the chronological series of events beginning with the discovery of any deficiencies or breaches of a contract. A typical list would be as follows:

1. Deficiency or breach – this would be a summary of what the problem is and why it is not in conformance with the contract. This should reference the contract clause or section of the RFP, IFB, LS etc. that is not being complied with;
2. Date of discovery;
3. Name of the DMA representative acting as the contract supervisor or the DMA representative that discovered the deficiency; and
4. A copy of the written notice delivered to the contractor stating the deficiency including the time period given to correct the deficiency and the consequences of not correcting the deficiency. This will be dependant upon the terms set forth in the original contract. It is suggested this correspondence be sent utilizing registered mail with a return receipt requested.

What if the contractor does not comply? If you are having problems in enforcing a contract, contact the CSD Contracts and Purchasing Officer. Chances are we have worked with another division/program on a similar problem and can help get your contract back on track. As a last result, the CSD Contracts and Purchasing Officer will initiate the termination procedure.

CONTRACT RENEWAL

When the time comes for contract renewal, several factors must be considered according to section 18-4-313, MCA. They are as follows:

1. Were the terms of the extension or renewal included in the solicitation?
2. Will the total contract term, including any extension or renewal, exceed seven years?
3. Are funds appropriated or otherwise available to support continuation of performance of the contract?
4. Does the contract serve the best interests of the State by encouraging effective competition or otherwise promoting economies in state procurement?
5. Has the contract expired? Expired contract s cannot be renewed beyond the term of the contract.

In addition, the required insurance and contract security must continue to be in place and in effect for the entire renewal contract period. ARM 2-5-502.

ADDENDA/AMENDMENTS/RENEWALS

ALL ADDENDA/AMENDMENTS MUST BE SENT TO DMA PURCHASING OFFICIALS TO BE PROCESSED.

DMA must include language in the Invitation for Bid or RFP document, which state that contract modifications may be made by written addenda only.

Adjustments bringing a contract over agency delegation amount must be processed or approved by Department of Administration.

All adjustments and modifications must be in writing and signed by all parties named in the original contract unless personnel changes dictate otherwise.

"Total contract value" must be considered to proceed with renewing a contract.

Addenda / Amendment Requirements

Cost Increase - can increase the total dollar amount of the original contract only when:

- (1) Correct procedures were used to select the original contractor and implement the contract;
- (2) The original contract has not expired or been terminated as of the date both (or all) parties approve the addendum;
- (3) The cost increase is not associated with any change in the scope of the work not authorized by DMA in writing;
- (4) The increase arose out of extraordinary circumstances or conditions which could not have reasonably been anticipated at the time the original contract was executed;

Extension / Renewal - can renew, continue or lengthen an existing contract for an additional period of time when:

- (1) Correct procedures were used to select the original contractor and implement the contract;

- (2) The original contract has not expired or been terminated as of the date both (or all) parties execute the extension.
- (3) The amount of additional time requested does not exceed the stated length of possible renewals allowed in the contract.
- (4) The extension/renewal modifies only the time authorized for the completion or performance of the original contract, and states that all other terms and conditions of the original contract remain in effect.

HANDLING VENDOR PROTESTS

On occasion, agencies may be required to respond to a vendor protest concerning the solicitation, award, or administration of a contract within their authority. How the dispute should be handled by an agency depends on the dollar amount involved and the status of the procurement.

Pursuant to section 18-4-242, MCA, small purchases and limited solicitations, as defined in ARM 2.5.603, are not subject to protest. If the protest involves a solicitation or award of a contract over the amounts established in ARM 2.5.603 for small purchase or limited solicitation, the agency must follow the protest procedure established in section 18-4-242, MCA. Attorneys are generally involved at this level and the protest may be taken through the contested case hearing process of the Montana Administrative Procedure Act and ultimately through judicial review.

In the event the protest concerns the administration of an existing contract, the protesting party must follow the protest procedure set out in the contract. If there is no procedure stated in the contract, the protesting party must submit a protest in writing no later than 14 days after the cause of the action, question, or dispute has arisen.

If the protest of a bid or proposal is not resolved by mutual agreement, the agency must issue a written decision on the protest within 30 days after the receipt of the protest. In issuing the final decision, the decision must: (a) state the reason for the action taken by the agency with regard to the contract; and (b) inform the aggrieved party of the party's right to pursue judicial action under Title 18, chapter 1, part 4, MCA.

Agencies should note that according to section 18-4-242, MCA, they are under no obligation to delay, halt, or modify an award or contract pending the result of a protest, contested case proceeding, or judicial review.

Agencies also need to note that all protests received by their agency must be reported to the State Procurement Bureau.

SPECIAL CIRCUMSTANCES

Sole Source Procurement

Under some limited circumstances, an agency may need to consider making a "**sole source procurement.**" "Sole source procurement" means an award for a supply or service to the only known capable vendor, occasioned by the unique nature of the requirement, the vendor, or market conditions. Because this acquisition takes place without the benefit of competition, agencies should be extremely reluctant to pursue this procurement method.

Sole source procurement is not permissible unless a required item is available only from a single vendor. Sole source distinguishes itself from sole brand in that only one vendor is available to provide the product. With a sole brand request, several vendors are available to distribute a specific brand.

For an item to meet the requirements of **Sole Source** one of the following conditions must be met:

- (a) There is only one source for the supply or service item;
- (b) only one source is acceptable or suitable for the supply or service item; or
- (c) the supply or service item is compatible w/ current supplies or services.

The Authorized Purchasing Personnel may conduct negotiations, as appropriate, as to price, delivery, and terms with the sole source vendor to secure the best buy for the State. The purchase order or contract must indicate the terms, specifications and conditions reached through negotiations.

All sole source purchases of \$5000 and above shall have written documentation.

Sole source documentation for purchases over \$5000 shall be approved in writing by the Division/Program Administrator and DMA Authorized Purchasing Personnel. DMA requestor must utilize the sole source justification forms are available on our website at <http://mt.dma.gov/>

For sole source purchases in excess of \$5000, submit a field requisition, a sole source form with any other available documentation and name of suggested vendor to the Authorized Purchasing Personnel for approval and processing. Documentation for sole source purchases over \$25,000 shall be approved by the Administrator and the Director of the Department of Military Affairs. Requests in excess of \$25,000.00 will be submitted, by the DMA, CSD Contracts and Purchasing Officer, to D of A, Purchasing Bureau for review and approval.

If the proposed purchase is above the agency's delegated authority, the determination to purchase an item on a sole source basis must be made by the State Procurement Bureau. The DMA, CSD, Contracts and Purchasing Officer must prepare a written justification using the D of A, State Procurement Bureau's "Sole Source" Procurement Justification Form, available on the D of A website, stating why the purchase must be made as a sole source purchase and forward it, along with the requisition, to the State Procurement Bureau. The requisition and justification will be reviewed and either approved or denied by the State Procurement Bureau with an explanation provided.

For the purpose of complying with 18-4-306, M.C.A., a record of sole source procurement shall be maintained that lists:

- (a) vendor's name
- (b) amount and type of each contract
- (c) listing of the supplies or services procured under each contract
- (d) identification number of each contract file.

The following items do not require sole source justification per (ARM 2.5.604) and may be purchased directly by the agency regardless of delegated authority:

- 1. Professional licenses;
- 2. Dues to associations;
- 3. Renewal of software license agreements; or
- 4. Purchase or renewal of maintenance agreements for software or hardware.

If over \$5000 must be procured by DMA, procurement official.

Sole source procurements need to be reviewed on a yearly basis and are not renewable. The agency can only contract with a sole source provider for one year at a time and must review and justify the use of a sole source provider on a yearly basis.

Sole Brand Procurement

Under some limited circumstances, an agency may need to consider making a "**sole brand procurement.**" A "sole brand procurement" means an award for a specific brand occasioned by the unique nature of the product. Because this acquisition utilizes restrictive specifications, agencies should be extremely reluctant to pursue this procurement method.

For an item to meet the requirements of **Sole Brand** one of the following conditions must be met:

- (a) There is only one brand for the supply or service item;
- (b) only one brand is acceptable or suitable for the supply or service item; or
- (c) the supply or service item is compatible w/ current supplies or services.

All sole source purchases of \$5000 and above shall have written documentation.

Sole source documentation for purchases over \$5000 shall be approved in writing by the Division/Program Administrator and DMA Authorized Purchasing Personnel. DMA Requestor must utilize the sole brand justification forms available on our website at <http://mt.dma.gov/>

For sole brand purchases in excess of \$5000, submit a field requisition, sole brand form with any other available documentation, and a list of suggested vendors to the Authorized Purchasing Personnel for approval and processing. Documentation for sole brand purchases over \$25,000 shall be approved by the Administrator and the Director of the Department of Military Affairs. Requests in excess of \$25,000 will be submitted, by the CSD Contracts and Purchasing Officer, to D of A, Purchasing Bureau for review and approval.

If the proposed purchase is above the agency's delegated authority, the determination to purchase an item on a sole brand basis must be made by the State Procurement Bureau. The DMA CSD Contracts and Purchasing Officer must prepare a written justification using the D of A State Procurement Bureau's "Sole Brand" Procurement Justification Form, available on the D of A website, stating why the purchase must be made as a sole brand purchase and forward it, along with the requisition, to the State Procurement Bureau. The requisition and justification will be reviewed and either approved or denied by the State Procurement Bureau with an explanation provided.

For the purpose of complying with 18-4-306, M.C.A., a record of sole brand procurement shall be maintained that lists:

- (a) vendor's name
- (b) amount and type of each contract
- (c) listing of the supplies or services procured under each contract
- (d) identification number of each contract file.

Sole brand procurements need to reviewed on a yearly basis and are not renewable. The agency can only contract with a sole brand provider for one year at a time and must review and justify the use of a sole source provider on a yearly basis.

Exigency Procurement

Under very limited circumstances, an agency may need the flexibility to make an "exigency" purchase. Exigency purchases are typically made outside of the normal purchasing procedures due to a sudden and unexpected happening or unforeseen occurrence or condition which requires immediate action. **It should never include a situation created by poor planning on the part of the using agency.**

Need is fundamental to justifying an exigency procurement -- the procedure shall not be used to satisfy personal preferences or convenience on the part of the agency, for preventing funds from reverting at the end of the fiscal year, or for any reason that seeks to circumvent regular procurement methods.

The following procedures must be considered when making a determination regarding exigency purchases:

- 1. An exigency procurement must be limited to those supplies and services necessary to meet the exigency.
- 2. The determination as to whether procurement is an exigency must be made by the CSD Contracts and Purchasing Officer. The determination must be in writing and must state the basis for exigency procurement and for the selection of the particular vendor.
- 3. The purchasing procedure used shall be selected to assure that the required supplies or services are procured in time to meet the exigency. However, such competition as is practicable shall be obtained.

A record of each exigency procurement must contain:

- 1. The vendor's name;
- 2. The amount and type of the contract;
- 3. A list of supplies and services purchased under the contract; and

4. Written documentation justifying the exigency procurement and the basis for the selection of a particular vendor.

Direct Negotiation

When none of the invitations for bids or requests for proposals received in response to a **valid** solicitation are from a responsible/responsive bidder or offeror the procurement officer may:

1. Cancel and reissue the solicitation. If the procurement officer reissues the solicitation, the procurement officer shall attempt to increase the number of potential vendors and may modify any specification in the original solicitation to enhance vendor participation; or
2. **If approved by the General Services Division**, directly negotiate with a vendor or vendors if the procurement officer determines that a second or subsequent solicitation would also be unsuccessful. The procurement officer may conduct negotiations as appropriate, as to price, delivery, and terms.

The determination as to whether procurement will be made by direct negotiation must be in writing, must state the basis for the direct negotiation and for the selection of a particular vendor, and must be approved by the General Services Division.

Purchasing Used Equipment

At times, agencies will find it in their best interest to purchase used equipment. The first place every agency should check for used equipment is the state surplus property managed by the Property and Supply Bureau. Each month the Bureau issues an updated list of federal and state surplus currently available for purchase by agencies. The list of available state surplus can be found on our website at: <http://gsd.mt.gov/procurement>. **Used equipment purchased through the Property and Supply Bureau is not subject to competitive bid requirements or agency delegation limits.**

USED EQUIPMENT available outside of the Property and Supply Bureau must be purchased utilizing the proper procurement method and must be approved prior to purchasing. Contact Authorized Purchasing Personnel for assistance prior to purchase negotiations.

For more information about purchasing used equipment from the Property and Supply Bureau, call 495-6020.

Criteria to consider in making the determination to purchase a used product include:

1. consideration of the type, use, and life expectancy of new versus used supplies;
2. comparing the purchase price of new versus used supplies;
3. comparing the price and general condition of used supplies among several vendors;
4. consideration of the freight charges and FOB point;
5. investigation of manufacturer or brand and availability of warranty, maintenance, and parts; and
6. clarification of payment terms.

Prequalification of Vendors

Prequalification of vendors is an option that may occasionally be considered by agencies. It is a process allowed by ARM 2.5.507 under the following circumstances:

- ✓ a need exists to limit a solicitation to those vendors who meet statutory or licensing requirements applicable to the solicitation; or
- ✓ a need exists to minimize the time necessary to verify vendor qualifications which otherwise would jeopardize the timely award of contracts.

A division/program pursuing this option must provide documentation to the Authorized Purchasing Personnel for the process that reflects the capability of the selected vendor to adequately perform the contract. The criteria for prequalification may include: technical expertise, experience, quality of performance, location, availability, rates, prices, financial stability, past performance, catalogs, or other criteria relevant to a particular procurement. This process must be approved by the CSD Contracts and Purchasing Officer or DOA General Services Division and does not necessarily represent supply or service acceptability or a finding of responsibility.

Request for Information

Division/programs may occasionally want to consider using a "Request for Information" process to obtain preliminary information about a market or the type of available supply or service when there is not enough information readily available to write an adequate specification or work statement. A request for information is simply a document used to informally solicit this type of information. It may not be used as a source selection method to procure a supply or service. ARM 2.5.508

Debarred Vendors Lists

Before awarding any contracts for commodities or services, purchasers shall consult the state debarred vendors list. This is a list of vendors prohibited from doing business with the state can be viewed at <http://gsd.mt.gov/procurement>.

For contracts for commodities or services with federal funding, purchasers shall consult the federal debarred vendors list. This is a list of vendors prohibited from doing business with the federal government can be viewed at <http://epls.arnet.gov/>.

Documentation showing the debarred vendor lists have been consulted needs to be provided in the procurement file.

ADVANCED PROCUREMENT METHODS AND ISSUES

FORMING AND WRITING SPECIFICATIONS

The term "specification" refers to that portion of a solicitation that describes the characteristics of the supply or service sought and is designed to provide the basis for obtaining a supply or service that will satisfy a particular need. Additionally, a specification which is properly written will not be unduly restrictive and will promote competition. However, the purpose of bid specifications is not solely to obtain the least expensive items, but the desired quality at the most competitive price.

Specification Requirements

Specifications are the major portion of the competitive process. Specifications are included with the purchase requisition and should do four things:

1. **Identify Minimum Requirements.** Specifications describe the minimum acceptable requirements of the supply or service the agency needs. Minimum, in this sense, does not mean substandard; it simply means those characteristics that a product must have in order to be considered. When writing a specification, include every feature that is needed.
2. **Allow for Competitive Bids.** Specifications should ensure that vendors can compete. Competition is the best way to ensure equitable treatment of vendors and low prices. Generally specifications based upon performance requirements will allow for more competition than a specification based upon design requirements.
3. **List Evaluation Criteria and Test Methods.** Specifications should state how the supply or service requested will be evaluated for award. If products will be compared, each vendor needs to know how those comparisons will be made. If an agency is basing an evaluation on physical tests, the testing methods must be stated. If the agency is making a comparison of manufacturers' literature describing the requested products, that must be so stated, and vendors must be informed, in the bid request, that they must provide that information with their bid.
4. **Provide for a Fair Award at the Lowest Possible Cost.** Specifications should ensure that an agency gets the supplies it needs at a reasonable price, and that the award will be made fairly. To perform those functions, specifications should be simple and clear, identifying exactly what is needed.

Division/programs are encouraged to contact the Authorized Purchasing Personnel prior to writing specifications. In many instances, specifications may have already been written for the item the agency is interested in purchasing.

How to Write Specifications

Specifications provide a precise description of the critical features a supply or service must have to satisfy an agency's needs. A specification should be written from the general to the specific. The following outline may be used as a guideline:

1. **Name of Supply or Service:** Begin a specification by listing the name of the supply or service sought: "compact sedan," for example, or "photocopier maintenance." Do not list a specific brand name in the title.
2. **Purpose/Use for Supply or Service:** State the purpose for which the item will be used. For example, a lawn mower specification might be: "suitable for daily use (4-6 hours) on a large grounds complex." Vendors should know the intended use to decide what type of product to bid.
3. **Description of Supply or Service:** List all the critical features the product must perform or have to meet agency requirements. Use a specification that indicates **performance** requirements if the agency is interested in the end product. Use a **design** specification, which details how a product is engineered, if the agency is interested in how a product will achieve that end result, or if the agency has a specific physical requirement for the product. Agencies should recognize that it is difficult to draft design specifications without being restrictive and limiting competition. A combination of performance and design requirements is often the most ideal specification.

Identify the minimum requirements, but make sure the stated minimum is a product that will satisfy the agency. If there are **brand name-or-equal** products that are of the appropriate quality level, list several of the brand names and model numbers, indicating the level or quality desired. However, this does not indicate a restriction to or acceptance of only those brands.

Divisions/programs need to be careful to not imply that only a certain brand name would be acceptable when preparing their bid specifications. Requestor should conduct product research to locate additional brands that may be able to meet their needs.

If a single brand name is necessary to provide the necessary quality, written justification must be provided using the DMA's "Sole Brand" Justification forms are available on our website at <http://mt.dma.gov/> (ARM 2.5.501.)

4. **List Special Requirements:** Provide any special requirements that the product or vendor must perform. Warranty, service, parts, and training requirements must be listed.
5. **Unusual Conditions:** Describe any unusual conditions, such as installation, field test, fiscal year funding source, etc.
6. **Delivery Date:** Indicate when product delivery is needed or required. If a delivery time is not specified, it will generally be 30 days after issuance of purchase order.
7. **Delivery Location:** Be specific about delivery location and any special delivery requirements. Bids should state that supplies are to be shipped F.O.B. destination, meaning that the title of the supplies remains with the vendor until the supplies are

unloaded at the final destination. When supplies are purchased F.O.B. destination, the vendor is responsible for any transportation charges and for damage to the supplies while they are being shipped. Do not use a P.O. Box address in delivery instructions; use a street address where supplies may be delivered.

8. **Agency Contact Person:** List the name, address, and phone number of the agency contact person.
9. **Receiving Procedures:** Describe if necessary, any receiving procedures (if testing, sampling or other evaluation will be performed when commodity is delivered to determine acceptability), special considerations for delivery (presence of dock, loading/unloading equipment, if vendor is to provide unloading services, etc)

Avoid Unnecessarily Restrictive Specifications

Good procurement practice and Montana law require that specifications not be unduly restrictive (Mont. Code Ann. § 18-4-234). Restrictive specifications only serve to limit competition and in the end, do not promote the overall economy for the purposes intended.

Things to consider are:

1. Who developed the specifications?
2. Did they come from a vendor?
3. When was the last time the specifications were updated?
4. Do the specifications always seem to lead to a purchase of the same brand?
5. Do the specifications state some requirements that formerly guaranteed a certain level of performance or life cycle prediction that is no longer true?
6. Are your specifications drawn from a recognized national or professional standard?
7. Are the specifications costing you money rather than getting you the best product?
8. Do you have specifications that are not necessary and that lead to a purchase of one brand over another for no real reason?
9. Is there a reason for a specification that eliminates certain products?
10. Are the specifications so narrow that you will be stuck accepting a product that doesn't meet your needs? The harsh reality is that most of the time, you will have to accept the item that your specifications called for, even if something "better" comes along.

Time spent researching specifications at the front end of a solicitation is time that is very well spent in ensuring you will be getting the best possible product for your agency--and avoiding any allegations of unduly restrictive specifications.

USE OF STANDARD STATEMENTS/"BOILERPLATE"

What Purpose Does It Serve? "Standard Statements" are common policy or procedure statements the State Procurement Bureau has developed for use with bids, proposals, purchase orders and contracts. Some standard statements are designed to assist vendors in submitting a bid/offer by alerting them to special conditions or requirements, such as a request for bid security, proof of workers compensation or a contractor's license.

When/Where to Find It and Insert It The State Procurement Bureau has developed standard statements addressing major issues involving the Montana Procurement Act. Two types of standard terms and conditions are available.

The first type of standard language is referred to as "**Boilerplate.**" These are standard terms and conditions that should be included in every bid, proposal, purchase order or contract.

The second is commonly referred to as "**Standard Statements.**" Each statement is tailored to a specific circumstance and may not necessarily be required in every bid or proposal or in the contract language.

<p>All of the agency approved standard statements must be used and can be found on the agency web page or by calling the CSD Contracts and Purchasing Officer at 444-3331.</p>

Text of RFP or IFB Must Be Consistent with "Boilerplate" Language The standard statements used in the "boilerplate" that is attached to an RFP or IFB must be consistent with the text of the RFP or IFB. The procurement official must take care to ensure that no conflict exists between the standard statements, the text of the procurement documents and the ensuing contract.

INSURANCE REQUIREMENTS

The Risk Management and Tort Defense Division, DOA, has established insurance requirements to be included in state bids and proposals. Generally, insurance should be required of contractors doing work for the State in order to transfer the risk of loss from the State to the contractor. There are five separate types of insurance requirements that should be evaluated and included in the solicitation document for bids and proposals. The five types of insurance are:

- **Commercial General Liability Insurance:** should be required when contractors perform work on state premises or property, other than the routine delivery of supplies. This coverage should be required where supplies or services are procured that may seriously damage information technology networks or other important, critical, or complex systems or processes and thereby damage or create liability for the state.
- **Automobile Insurance:** should be required if the contractor will be transporting state employees, state guests, state clients, or state products as part of the contract.
- **Professional Liability Insurance:** should be required for anyone who gives advice or provides services on which others have reason to rely and may be subject to legal action if the advice or service proves faulty.
- **Property Insurance:** should be required in any contract that involves lease, renovation, or construction of state buildings.
- **Workers' Compensation insurance or an exemption:** should be required in all service contracts.

Model Language

The following model insurance language has been developed by the Risk Management and Tort Defense Division for insertion into a solicitation document and subsequent contract or purchase order. Appropriate paragraphs should be inserted or deleted depending on the requirements of a specific solicitation.

Insurance Language - Solicitation

(insert for commercial general liability and automobile liability only)

General Requirements: The contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

(insert for all insurance types)

Primary Insurance: The contractor's insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be in excess of the contractor's insurance and shall not contribute with it.

(insert for commercial general liability only)

Specific Requirements for Commercial General Liability: The contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of

_____ per occurrence and _____ aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the contractor or its officers, agents, representatives, assigns or subcontractors.

(insert for commercial general liability only)

Additional Insured Status: The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds; for liability arising out of activities performed by or on behalf of the contractor, including the insured's general supervision of the contractor; products and completed operations; premises owned, leased, occupied, or used.

(insert for automobile liability only)

Specific Requirements for Automobile Liability: The Contractor shall purchase and maintain coverage with split limits of _____ per person (personal injury), _____ per accident (personal injury), and _____ per accident (property damage) to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

(insert for automobile only)

Additional Insured Status: The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for automobiles leased, hired, or borrowed by the contractor.

(insert for professional liability only)

Specific Requirements for Professional Liability: The contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of _____ per occurrence and _____ aggregate per year to cover such claims as may be caused by any act, omission, negligence of the contractor or its officers, agents, representatives, assigns or subcontractors. Note: if "occurrence" coverage is unavailable or cost prohibitive, the contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

(insert for all insurance types)

Deductibles and Self-Insured Retentions: Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, and volunteers; or (2) at the expense of the contractor, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

(insert for all insurance types)

Certificate of Insurance/Endorsements: Insurance must be placed with an insurer with a Best's rating of no less than A-. The certificate must also include the State's solicitation number. This insurance must be maintained for the duration of the contract. The State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135, must receive all required certificates and endorsements within 10 days from the date of the Request for Documents notice before a contract or purchase order will be issued. Work may not commence until a contract or purchase order is in place. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc.

Certificate of Insurance/Endorsements: Insurance must be placed with an insurer with a Best's rating of no less than A-. The certificate must also include the State's solicitation number. This insurance must be maintained for the duration of the contract. The State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135, must receive all required certificates and endorsements within 10 days from the date of the Request for Documents notice before a contract or purchase order will be issued. Work may not commence until a contract or purchase order is in place. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc.

The following model insurance language should be inserted based on appropriateness to the purchase order or contract that is the result of a specific solicitation. The language is slightly revised to reflect the change in status from a solicitation to a purchase order or contract. This language is available on the GSD website at: <http://DMA.mt.gov>

Insurance Requirements – Purchase Order or Contract

(insert for commercial general liability and automobile liability only)

General Requirements: The contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

(insert for all insurance types)

Primary Insurance: The contractor's insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be in excess of the contractor's insurance and shall not contribute with it.

(insert for commercial general liability only)

Specific Requirements for Commercial General Liability: The contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of _____ per occurrence and _____ aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the contractor or its officers, agents, representatives, assigns or subcontractors.

(insert for commercial general liability only)

Additional Insured Status: The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds; for liability arising out of activities performed by or on behalf of the contractor, including the insured's general supervision of the contractor; products and completed operations; premises owned, leased, occupied, or used.

(insert for automobile liability only)

Specific Requirements for Automobile Liability: The Contractor shall purchase and maintain coverage with split limits of _____ per person (personal injury), _____ per accident (personal injury), and _____ per accident (property damage) to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

(insert for automobile only)

Additional Insured Status: The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for automobiles leased, hired, or borrowed by the contractor.

(insert for professional liability only)

Specific Requirements for Professional Liability: The contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of _____ per occurrence and _____ aggregate per year to cover such claims as may be caused by any act, omission, negligence of the contractor or its officers, agents, representatives, assigns or subcontractors. Note: if "occurrence" coverage is unavailable or cost prohibitive, the contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

(insert for all insurance types)

Deductibles and Self-Insured Retentions: Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, and volunteers; or (2) at the expense of the contractor, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

(insert for all insurance types)

Certificate of Insurance/Endorsements: A certificate of insurance from insurer with a Best's rating of no less than A- indicating compliance with the required coverages has been received by the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135. The contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc.

1-0715.30 What to Require and When

The Risk Management and Tort Defense Division has developed the following table as an aid to determining appropriate insurance requirements for various risk levels:

Type of Insurance	Low Risk	Moderate Risk	High Risk
	(Combined Single Limits)		
General	\$300,000 per occurrence	\$500,000 per occurrence	\$1,000,000 per occurrence
	\$600,000 aggregate	\$1,000,000 aggregate	\$2,000,000 aggregate
Auto	\$300,000 per occurrence	\$500,000 per occurrence	\$1,000,000 per occurrence
	\$600,000 aggregate	\$1,000,000 aggregate	\$2,000,000 aggregate
Professional Liability	\$300,000 per occurrence	\$500,000 per occurrence	\$1,000,000 per occurrence
	\$600,000 aggregate	\$1,000,000 aggregate	\$2,000,000 aggregate
Property	Replacement Cost usually	Replacement Cost usually	Replacement Cost usually
Workers' Compensation	Statutorily Defined	Statutorily Defined	Statutorily Defined

COMPLIANCE WITH WORKERS' COMPENSATION ACT

When to Require It

Workers' compensation insurance or proof of an exemption is required on all state service contracts. Failure to require Workers' Compensation insurance could result in the agency being responsible to pay claims in the event a contractor or contractors employee is injured while performing the service for DMA.

For questions concerning Workers' Compensation insurance contact the Department of Labor and Industry, Workers' Compensation Bureau at 444-9091 or the CSD Contracts and Purchasing Officer at 324-3331.

What to Collect

Acceptable forms to document workers' compensation coverage are: (1) a proof of insurance form supplied by the Montana State Fund; or (2) an "Acord" Certificate of Insurance form. Proof of an independent contractor exemption must be on the form furnished by the Montana Department of Labor and Industry entitled "Certificate of Independent Contractor Exemption," or in the case of out-of-state contractors, a similar form issued by their home state. Corporate officers must provide some documentation of their exempt status.

BID/PROPOSAL SECURITY AND PERFORMANCE SECURITY

When to Require It

Requiring security as a part of the bid/proposal and award process is intended as protection for the State against bad faith or failure on the part of vendors and contractors. **“Bid/proposal security”** affords protection against a bid/proposal being withdrawn after it has been opened. It is a representation that the bid/proposal is submitted in good faith. **“Contract performance security”** is required to provide for the fulfillment of the contract.

Several factors should be considered in a decision to require bid/proposal security or contract performance security and in determining the amount of security required. These factors include:

1. Type of commodity;
2. Past state experience;
3. Labor required to perform contract;
4. Materials required to perform contract;

For contract performance security, these additional factors should also be considered:

1. Amount and number of subcontracts;
2. Damages chargeable to the State if the contractor defaults; and
3. Estimated dollar amount of total contract.

What to Collect

Bid/proposal security is intended to be a demonstration of good faith on the part of the vendor and to provide damages to the State should any vendor refuse to honor a bid/offer. The types of securities permissible in section 18-4-312, MCA, are outlined as follows:

1. A sufficient bond with a licensed surety company as surety;
2. An irrevocable letter of credit not to exceed \$100,000 in accordance with the provisions of Title 30, chapter 5, part 1, MCA;
3. Lawful money of the United States; or
4. A cashier's check, certified check, bank money order, certificate of deposit, money market certificate, or bank draft that is drawn or issued by a federally or state-chartered bank or savings and loan association that is insured by or for which insurance is administered by the federal deposit insurance corporation or that is drawn and issued by a credit union insured by the national credit union share insurance fund.

Agencies should note, however, that the statute permits the State the option of not accepting certain types of security. For instance, an agency may choose to only accept surety bonds and not accept letters of credit. The decision on what form of security to accept and the amount of security to require is critical to the protection of the State's interest in the event of a breach of contract.

Surety bonds and letters of credit will only be accepted by the State of Montana using the forms supplied by the State Procurement Bureau. These forms can be found at <http://mt.gov/doa/gsd/procurement/forms.asp>.

For more information on what types of performance bonds to require, contact a contracts officer in the State Procurement Bureau at (406) 444-2575.

All securities must be payable solely to the State of Montana. Certificates of deposit or money market certificates will not be accepted as bid/proposal security unless the certificates are assigned only to the State. All interest income from these certificates must accrue only to the contractor and not the State. Facsimile copies of bid/proposal security are not acceptable.

If bid/proposal security is a requirement, it must be stated in the original Invitation for Bid (IFB) or Request for Proposal (RFP) sent to bidders or offerors. Guidance in determining when to require bid/proposal security may be found in ARM 2.5.502 and section 18-4-312, MCA, or by calling a contracts officer in the State Procurement Bureau at (406) 444-2575.

Bid/proposal security is only helpful in the bidding/proposal process -- not in performance. Generally, bid/proposal security is only required when it is anticipated that contract performance security will also be required. **After the contract has been signed, negotiable security must be returned to the unsuccessful bidders/offerors within 30 days from the date of the award.**

“Contract performance security” differs from bid/proposal security in that it provides assurance that the contract will be performed according to specifications.

If contract performance security is required, a statement to that effect must be placed in the original IFB or RFP. All performance securities received in the form of a bond must be verified by the State Auditor's Office that the company is a licensed surety company in Montana and has a Best rating of at least A- according to the prior annual rating.

Types of permitted security are the same as for bid security and are found in either section 18-4-312, MCA, or above in Section 1-0717.20.

If contract performance security is required, the contractor must not be allowed to start work until the security has been received, checked, and accepted.

Guidance for when to require contract performance security may be found in ARM 2.5.502 and section 18-4-312, MCA, by calling a contracts officer in the State Procurement Bureau at (406) 444-2575, or by reviewing the resource document entitled “Questions and Answers on Contract Performance Security” on the GSD website: <http://mt.gov/doa/gsd/procurement/procurementgas.asp>. All performance security, except bonds, must be returned to the successful bidder/offeror upon completion of the contract, or at the discretion of the contract liaison and/or procurement officials as documented to assure contract completion, or warranty period as declared within the contract. Contract bonds are not returned unless requested by the vendor.

BUILDING IFBS AND RFPS

Competitive Sealed Bidding

Agency Authorized Purchasing Personnel are available to assist in the development of RFP's. Contact your authorized purchasing officer when you first know that you will be procuring services with a RFP.

The competitive sealed bid calls for bids, firm prices, and conditions, which may not be changed once they are opened (except for correction of errors as specified by law). This process involves the use of an **"Invitation for Bid" (IFB)** which must contain detailed specifications for the item(s) sought, statements alerting bidders to any special requirements in the bid, shipping and billing instructions, and contract "boilerplate" provisions that alert bidders to standard requirements or conditions for doing business with the State of Montana.

The IFB must be sent to an adequate number of bidders to ensure competition. Agencies must review the State Vendors List for all formal solicitations. An agency may add to this list by telling the vendor to submit a vendor registration form to the State Procurement Bureau (or by use of a supplementary list if permitted through the written Procurement Delegation Agreement).

Sealed bids must be received before the time specified in the IFB, must be time stamped and stored by someone other than the procurement official, and be publicly opened at the time and place designated. Facsimile submissions of bids must be transmitted *and* completely received prior to the time set for receipt of bids by someone other than the procurement official. The facsimile bid submission must be similarly time stamped, placed in an envelope, and stored by someone other than the procurement official.

A record sufficient to facilitate auditing of the purchasing agency must be placed in the procurement files. The State Procurement Bureau recommends that the purchasing agency maintain a record of the following documents:

1. Approved purchase requisition from the ordering entity;
2. Invitation for Bid with specifications, including any addenda;
3. Advertised notice to vendors and/or list of vendors;
4. All bids;
5. Tabulation of bids;
6. Correspondence concerning the purchase, including a recommendation for award from the using agency if appropriate;
7. An explanation by the procurement officer if the contract is awarded to anyone other than the low bidder;
8. Evidence of a performance bond, if required; and
9. Signed purchase order.

Competitive Sealed Proposals

Agency Authorized Purchasing Personnel are available to assist in the development of RFP's. Contact your authorized purchasing officer when you first know that you will be procuring services with a RFP.

There is a growing recognition that competitive sealed bidding cannot adequately address acquisitions where specific or generic specifications are difficult or impossible to draft, and conventional evaluation for award cannot be made on absolute criteria incorporated in an Invitation for Bid. In these instances, a contract may be entered into by competitive sealed proposal, or more commonly known as a **“Request for Proposal (RFP).”**

Whereas the evaluation criteria in competitive bidding is limited to a determination as to whether a bid meets the specifications, and terms and conditions specified in the Invitation for Bid, the “Request for Proposal” process takes the bid evaluation one step further. Not only is the RFP evaluation criteria used to determine if the proposal meets the purchase description, but it is also used to evaluate competing proposals and as a basis for further negotiation. Like the findings under competitive bidding, the determination is limited to those criteria specified in the RFP but these usually permit more discretion.

RFPs may be practical when one or more of the following conditions exist (according to ARM 2.5.602):

1. the contract needs to be other than a fixed-price type;
2. oral or written discussions may need to be conducted with offerors concerning the technical and price aspects of their proposals;
3. offerors may need to be afforded the opportunity to revise their proposals, including prices;
4. award may need to be based upon a comparative evaluation as stated in the request for proposals of differing price, quality, and contractual factors in order to determine the most advantageous offering to the State. Quality factors include technical and performance capability and the content of the technical proposal; or
5. price will only be one of several criteria considered in determining an award.

The RFP format allows greater flexibility for the procurement official in determining the evaluation criteria used in the award of a contract. Additionally, it offers both state agencies and offerors an opportunity to modify their requests or offers as a greater understanding of the State's need is gained. As a result, this process may be a multi-step procedure requiring a significantly greater amount of time and effort than a competitive bid process.

The “right to know” provision of Montana's Constitution, Article II, § 9, and section 18-4-304, MCA, allow the contents of submitted proposals to be open to public inspection, including competing offerors and the media, shortly after the time set for the receipt of proposals once the procurement officer has had the opportunity to inspect the proposals and remove any materials protected from public disclosure, i.e., trade secret materials. In addition, all meetings involving the evaluations of RFPs, are open to the public and subject to the open meeting laws.

Each **Request for Proposal file** must include a record sufficient to facilitate auditing of the purchasing agency. The State Procurement Bureau recommends that the agency maintain, at a minimum, a record of the following documents:

1. Record of public notice of the RFP request and mailing list;
2. Copy of the request for proposal;
3. Copies of submitted proposals;
4. A determination of award, detailing the basis on which the award was made;
5. Notes, recordings or minutes of any discussions with the offerors; and
6. The purchase order or contract.

SPECIAL CIRCUMSTANCES FOR CONSTRUCTION CONTRACTS

Procurement officials should be aware that some solicitations, particularly those that involve "construction-like" services, may require that language be inserted into the solicitation and resulting purchase order/contract that address the payment of prevailing wages, contractor registration requirements, and/or contractor withholding requirements. The following paragraphs explain these requirements in more detail.

Notice of Prevailing Wages

One issue that needs to be addressed in issuing IFBs and RFPs is the statute requiring the payment of prevailing wages for "public works contracts" (Mont. Code Ann. § 18-2-403). Under current law, all "public works contracts" over \$25,000 (total contract value) for "construction" and "non-construction" services must require the payment of prevailing wages. The provision requiring the payment of the standard prevailing rate of wages, including fringe benefits for health and welfare and pension contributions, must be included in the bid document and the resulting contract. (Mont. Code Ann. § 18-2-422.) The terms "construction" and "non-construction" are defined in section 18-2-401, MCA.

Non-construction services" means work performed by an individual, not including management, office, or clerical work, for:

1. the maintenance of publicly owned buildings and facilities, including public highways, roads, streets, and alleys;
2. custodial or security services for publicly owned buildings and facilities;
3. grounds maintenance for publicly owned property;
4. the operation of public drinking water supply, waste collection, and waste disposal systems;
5. law enforcement, including janitors and prison guards;
6. fire protection;
7. public or school transportation driving;
8. nursing, nurse's aid services, and medical laboratory technician services;
9. material and mail handling;
10. food service and cooking;
11. motor vehicle and construction equipment repair and servicing; and
12. appliance and office machine repair and servicing.

For assistance concerning prevailing wage language, contact the State Procurement Bureau at (406) 444-2575 or the Department of Labor and Industry at (406) 444-1376.

Contractor Registration Requirements

Construction contractors interested in performing work under state contracts must be registered with the state Department of Labor and Industry pursuant to section 39-9-201, MCA. Agencies must confirm this registration prior to contract award. Any questions regarding contractor registration should be directed to the Employment Relations Division in the Department of Labor and Industry (444-7734).

Contractor Withholding Requirements

Agencies using the services of a public contractor are also required to withhold 1% of all payments for any "public construction work" over \$5,000 (Mont. Code Ann. § 15-50-206)

Questions and Answers on Contractor Withholding Issues Prepared by the State Procurement Bureau, Department of Administration, with the assistance of the Department of Revenue October 2001

1. Who is responsible for notifying the Department of Revenue (DOR) that a "public works" contract over \$5,000 has been issued?

The agency issuing the contract is responsible for notifying DOR that the 1% withholding requirement will apply to the project. The issuing agency completes DOR's "Contract Award Report," which is available on the General Services Division website at: <http://mt.gov/doa/gsd/procurement/forms.asp>. The SPB will complete the form if it conducted the procurement on behalf of a state agency.

2. Who is the "awarding party" for the purposes of the DOR forms?

The "awarding party" is the agency that the contract is being issued for – in essence, the "responsible party." If the SPB conducted the procurement, a SPB contracts officer will sign it as the "Preparer" on behalf of the state agency.

3. How is DOR's "Gross Receipts Withholding Report" completed?

If the SPB conducted the procurement, a SPB contracts officer will fill out sections 1, 2, 3, 4, 5, and 11 and then forward the form to the state agency for completion. Again, this form is available on the GSD website at: <http://mt.gov/doa/gsd/procurement/forms.asp>.

4. What types of contracts are covered by the contractor withholding tax?

First, it applies to all public contracts at every level of jurisdiction. Second, pursuant to the DOR administrative rules, the term "construction" should be broadly construed. "Public construction work" includes any work requiring the installation, addition, placement, replacement, or removal of any equipment, parts, structures, or materials exceeding \$5,000 whether or not such contracts require performance of service, maintenance, repair, or any other type of work in addition to, or as part of, the work as stated above. (See ARM 42.31.2101.) Therefore, this tax applies to anything related to construction, repair, maintenance, etc. However, it does NOT apply to "services" associated with maintaining buildings, such as janitorial services or elevator maintenance (unless it involves structural changes to accommodate new equipment). It does apply to things like carpet installation (if over \$5,000), carpet removal (because it typically goes with some sort of improvement/replacement of floor treatment), retrofit of heating, ventilation, and air conditioning systems, removal of phone cables (if it involves conduit removal or wall repair, but not if it just involves pulling wires through conduit), installation of telephone or IT cable (unless it is just an upgrade through existing conduit), etc. *If you need assistance in determining whether the contractor withholding tax applies, contact the Department of Revenue at (406) 444-3500.*

5. Does DOR have a position on how information about the tax is reflected in bids?

No. DOR suggests that it be left up to bidders as to how they bid their jobs. The SPB and agencies will still award to the low bidder. Whether the tax is paid out of that amount or paid separately is up to the bidder.

SENDING OUT BIDS AND PROPOSALS

State Vendors List

"Bidders list," "vendor list," "suppliers list," and "bid list" are all generic terms for a roster of prospective vendors. The vendors list is an important resource in the process of competitive procurement. The State Procurement Bureau, Print Services, and the Property and Supply Bureau maintain a list of prospective vendors in order to offer vendors a central point of contact for state government business and to provide state agencies with a current source of vendors interested in doing business with the State.

D of A has developed an "all-in-one" web site intended to assist vendors in doing business with the State of Montana. This web site, called "One-Stop Vendor Information" is located at <http://vendor.mt.gov>. In addition to providing vendors with the requirements governing the State's procurement process, vendors can review and download current solicitations, and review contracts and contract awards. The web site includes the new Vendor List online registration process which allows vendors to input and maintain their own company information in a few simple steps. Vendors interested in competing for state business must fill out the Vendor Registration Form on the site indicating which supplies and services they wish to bid on. An electronic copy of the Vendor Registration Form is available on the Division's website at <http://gsd.mt.gov/procurement/> or by calling the State Procurement Bureau at 444-2575, Print Services at 444-3053, or the Property and Supply Bureau at 495-6000.

The vendors list is organized by vendor quote groups. Each vendor quote group is further divided into item codes. A vendor may indicate an interest in bidding on just specific items within a quote group, or may be interested in the entire quote group. A vendor may be listed in more than one quote group and more than one item.

The State's vendors list may not be used for private promotional, commercial or market purposes. (See section 2-6-109, MCA.)

Using the Vendors List

Agencies may access the State's Vendors List through the internet. Agencies may contact the State Procurement Bureau at 444-2575 to obtain more information regarding access.

Selecting Vendors

There is no specific number of vendors who must receive bid or proposal requests, but the number must be sufficient to ensure a competitive process. This number may vary according to the supply or service being purchased.

Agencies may wish to send bids to all the vendors on the list until they have developed the expertise necessary to gauge competitiveness. Once an agency has developed that expertise, they may move to a system whereby they reduce the vendors list by a random selection process and, in addition, add the names of vendors they know to be competitive. The method used for the random selection should be documented.

Vendor Quote Groups

The vendor quote group list is maintained by the State Procurement Bureau as a means of categorizing supplies and services typically ordered by state agencies. Each contracts officer is assigned specific quote groups to procure in order to develop expertise in those areas. The vendor quote group list and contracts officer assignments are available on our website at: <http://gsd.mt.gov/procurement>. Questions about specific supplies or services should be directed to the appropriate contracts officer by calling the State Procurement Bureau at 444-2575.

Public Notice Requirements

Invitation for bids and requests for proposals shall be mailed, posted electronically, or otherwise furnished to a sufficient number of bidders/offerors to ensure competition.

1. **Posted electronically to a website.** The Authorized Purchasing Personnel will post the IFB/RFP at the following website address: at <http://dma.mt.gov> and at the State's website at <http://gsd.mt.gov/osbs>

The IFBs/RFPs are posted in their entirety in a format that may be downloaded by prospective vendors. In addition, links to other state agency bid sites are provided at this website address.

2. **Facsimile notification of Invitations for Bids/Requests for Proposals provided to prospective vendors.** A letter may be faxed to prospective vendors notifying them of invitations for bids and providing a website address to download a copy of the IFB/RFP.
3. **Publication of legal ads in state newspapers.** Occasionally, legal ads can be used to provide notification of invitation for bid/request for proposal opportunities.

OPENING AND AWARDING IFBS

Authorized Purchasing Personnel are available to assist in the development of IFB's. Contact your authorized purchasing officer when you first know that you will be procuring services or supplies with an IFB.

Public Opening

Montana law requires that bids in response to an invitation for bid must be opened publicly at the time and place designated in the IFB. The location must be ADA accessible in conformity with the Americans with Disabilities Act.

Each vendor has the right to be present, either in person or by agent, when the bids are opened and has the right to examine and inspect all bids. The name of each vendor, the bid price, and such other information as is deemed appropriate by the procurement officer must be recorded. This record is available for public inspection.

Late Bids

Regardless of cause, late bids must not be accepted and must automatically be disqualified from further consideration. This is true even if the bid is only one minute late. Vendors are notified via the standard terms and conditions that accompany a bid that it is solely the vendor's risk to assure delivery at the designated office by the designated time. Late bids should not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

"Responsive" and "Responsible"

By statute, **"responsible bidder"** means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance.

"Responsive bidder" means a person who has submitted a bid which conforms in all material respects to the invitation for bids.

Tabulating In the case of a bid, once bids have been opened, a "bid tabulation sheet" should be prepared. A bid tabulation sheet provides a summary document for anyone wishing to review the bid to compare the pricing information from each vendor responding to an Invitation for Bid. The bid tabulation sheet should contain the following information:

1. Name of vendor;
2. Unit price of each item bid;
3. Notations if the vendor is bidding other than "as specified" or "rejected";
4. Notation of who received award;
5. Brand/model of awarded item; and
6. Reciprocal preference notations, if applicable.

The procurement official uses the tabulation sheet to determine the low bid. Each item on a bid is reviewed separately. The following must be considered for each IFB:

1. **Unit Price:** The unit price from each vendor is compared to determine the lowest bid. Occasionally, a vendor will submit a unit price and an extended (total) price that do not correspond. In this event, the unit price always prevails, and the procurement official must use the unit price in determining the award.
2. **Blind Vendor Preference:** Section 18-5-502, MCA, awards a 3% preference to blind persons whenever state property is proposed to be made available to private persons for use as a vending facility. If two or more substantially equal proposals are received and determined to meet the purchasing agency's specifications and do not differ by more than 3%, the contract will be awarded to the blind vendor. For additional information, see ARM 2.5.405.
3. **Alternate/Substitute Bids:** Vendors may submit alternate/substitute bids (a bid on supplies other than specified). The vendor shall submit a quote on a product or service which meets or exceeds the specifications. Then they are permitted to submit a quote on other than specified. Alternate/substitute bids are considered only if the vendor is the lowest responsible vendor and their primary bid meets the specifications.
4. **"All or Nothing Bids":** If a vendor bids "all or nothing," the procurement official must first total the price of all items specified from the vendor who bid "all or nothing." Next, the official totals the prices from the lowest responsible vendors on each item (excluding the "all or nothing" vendor).
In considering the reciprocal preference addressed below, the totals of the "all or nothing" bid must be compared to the total from the low bids. If the "all or nothing" bid represents the lowest total bid for those items, the contract is awarded to that vendor. If the "all or nothing" bid is higher than the total of all the individual items, then the bid is disqualified.
5. **Tie Bids:** Occasionally two or more vendors will bid an identical price. If after reciprocal preference is considered there is still a tie, the award decision must be made by the flip of a coin or drawing of lots. The procurement official and one other witness should then initial the award.

Reciprocal Preference

State law requires a state agency to apply a reciprocal preference to the bid of a nonresident bidder equal to the percent of the preference given to the bidder in the state or country in which the bidder is a resident. This type of preference is only applied against bidders whose resident states apply resident preferences. Very few states fit in this category. A reciprocal or "retaliatory" preference is applied **only** to an invitation for bid for supplies or an invitation for bid for non-construction services for public works as defined in section 18-2-401(9), MCA, and **only** in the event that federal funds are not involved in the anticipated purchase. In addition, a reciprocal preference is **only** applied if it will benefit a Montana resident bidder as defined in section 18-1-103, MCA.

According to section 18-1-102, MCA, a public agency shall award:

1. A public contract for construction, repair, or public works to the lowest responsible bidder without regard to residency. However, a resident bidder must be allowed a preference on a contract against the bid of a nonresident bidder from any state or country that enforces a preference for resident bidders. The preference given to

resident bidders of this state must be equal to the preference given in the other state or country.

2. A public contract for the purchase of goods to the lowest responsible bidder without regard to residency. However, a resident must be allowed a preference on a contract against the bid of a nonresident if the state or country of the nonresident enforces a preference for residents. The preference must be equal to the preference given in the other state or country.

How to Determine if Reciprocal Preference Applies

1. The reciprocal preference, as required in section 18-1-102, MCA, is applied only to an invitation for bid for supplies or an invitation for bid for non-construction services for public works as defined in section 18-2-401(9), MCA, but only in the event that federal funds are not involved in the anticipated purchase.
2. The reciprocal preference is only applied if it will benefit a Montana resident bidder as defined in section 18-1-103, MCA.

How to Apply the Reciprocal Preference

1. If it is determined that the lowest responsive and responsible bidder would receive a percent preference in its resident state, that percent is added to the bid of the nonresident bidder. If the nonresident bidder is still the lowest responsive and responsible bidder after the preference adjustment has been made, the contract price is the price bid, not the adjusted price. For example, if a bid is received from a Wyoming company, the agency must add 5% to that bidder's price when evaluating the bid because that is the general percentage Montana firms are penalized when bidding on contracts in Wyoming. A list of states that apply preferences and more detailed explanation of the application of the reciprocal preference is available on the SPB website at: <http://gsd.mt.gov/procurement/css/Resources/ReciprocalPreference.asp>.
2. A resident bidder must complete a bidder affidavit to verify resident eligibility. This affidavit must be on file with the Department of Administration before a bid award can be made.
3. The business name and federal identification number on the Montana resident affidavit must match the business name and federal identification number on the submitted bid documents in order to be considered for the application of the reciprocal preference.

Whether or not a bidder qualifies as a Montana resident is determined by the General Services Division. This determination is based on a notarized affidavit filed with that office by the vendor. The affidavit is reviewed by the staff of the division and a determination is made on whether the vendor qualifies for residency status based on section 18-1-103, MCA.

If the Department of Administration determines that the bidder has submitted a false affidavit, the bidder may be disqualified as a future bidder for five years after the date of that determination. See section 18-1-113 (2), MCA.

Mistakes In Bids

The procurement officer may allow a bidder or offeror to correct minor mistakes in a bid or offer if the mistake is clearly not attributed to an error in judgment, and the mistake and the intended

correct bid or offer is clearly evident on the form of the document. Examples of correctable mistakes include, but are not limited to:

1. typographical errors;
2. errors in extending unit prices;
3. transposition errors;
4. arithmetical errors; and
5. signature omitted.

In addition, the procurement officer may permit a bidder or offeror to withdraw a low bid or proposal if:

1. a mistake is clearly evident on the face of the document but the intended correct information is not similarly evident; or
2. the bidder or offeror submits proof of evidentiary value which clearly and convincingly demonstrates that a mistake was made.

Notification Options

Once an invitation for bid or request for proposal has been tabulated or evaluated and either the lowest qualified bidder or the top scoring offeror has been determined, the agency should send a "Request for Documentation" letter to the bidder or offeror. This letter notifies the bidder/offeror that the Department of Military Affairs intends to accept the bid or proposal submitted once the required insurance or security documents are received. The notice should clearly state that it does not constitute a contract and that the vendor may not proceed with any work concerning the bid or proposal until either a signed purchase order or contract is received from the agency. It should also provide a deadline for receipt of the required documents. Once the required documents are received, the agency may proceed to issue the purchase order or contract.

Award Options

Bids in response to an invitation for bid are awarded to the "lowest responsible and responsive bidder" whose bid meets or exceeds the specifications requested. Bids are considered "awarded" when a purchase order is issued and appropriate security and/or insurance is received or a contract is signed. The purchase order includes the unit and extension prices, total price, and the terms and conditions of the contract. If the State Procurement Bureau awards the bid, it will issue the purchase order.

The process of evaluation and award is the critical midpoint in the procurement spectrum--and often, the most litigated. Nationwide, the courts have declared that the purpose of procurement competition is the conservation of public funds. The courts have also found, economy notwithstanding, that the process must be free of favoritism, corruption, fraud, and arbitrary or capricious decisions. As a result, agencies must bear the responsibility of rigorously applying procurement law and rules, addressing in detail the evaluation and subsequent award of a contract.

In an **Invitation for Bid** situation, the award must be made to the lowest "responsible and responsive" bidder whose bid meets the requirements and criteria set forth in the invitation for bid, including application of the reciprocal preference required by section 18-1-102, MCA.

NOTE: Before awarding a bid which involves Federal Funding you must check the Montana State and Federal Debarred Vendors list located at <http://gsd.mt.gov/procurement/debarredsuspendedvendors.asp>

Issuing Purchase Orders

A purchase order is a document that formalizes a purchase transaction with a vendor. It sets out the agreement between the parties as to the terms of the purchase. It contains statements as to the quantity, description, and price of the supplies or services, applicable terms for payments, discounts, dates of performance, transportation terms, and all other factors pertinent to the purchase and its execution by the vendor. If agency authorized purchasing personnel awards the bid, they will issue the original purchase order to the vendor and provide a copy to the original requestor.

OPENING AND AWARDING RFPS

Agency Authorized Purchasing Personnel are available to assist in the development of RFP's. Contact your authorized purchasing officer when you first know that you will be procuring services with a RFP.

No Public Opening

In contrast to an invitation for bid, proposals received in response to a Request for Proposal are not available for public inspection until they have been opened and reviewed by a procurement official for the presence of certain documents. Items protected from public scrutiny are bona fide trade secrets, pursuant to Title 30, chapter 14, part 4, MCA; matters involving individual safety; and company financial information provided to establish vendor responsibility. Once these items have been removed from the public copy of a proposal, the document is made available for public inspection.

Late Proposals

Regardless of cause, late proposals must not be accepted and must automatically be disqualified from further consideration. This is true even if the proposal is only one minute late. Offerors are notified via the standard terms and conditions that accompany a Request for Proposal that it is solely the offeror's risk to assure delivery at the designated office by the designated time. Late proposals should not be opened and may be returned to the offeror at the expense of the offeror or destroyed if requested.

Trade Secrets

In order to protect any information identified as "trade secrets" from public scrutiny, it must be clearly marked and separated from the rest of the proposal by the offeror. An "Affidavit for Trade Secret Confidentiality" must be attached to each proposal containing trade secrets. This affidavit is available on the State Procurement Bureau's website at <http://gsd.mt.gov/procurement> or by calling 444-2575. The proposal may not contain trade secret matter in the cost or pricing data.

"Responsible" and "Responsive"

By statute, "**responsible offeror**" means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance.

"**Responsive offeror**" means a person who has submitted a bid which conforms in all material respects to the request for proposal.

If information concerning vendor responsibility is asked for and included in an RFP, it may be protected from public disclosure by a separate affidavit submitted with the RFP claiming confidentiality.

Reciprocal Preference Not Applied

The reciprocal preference detailed in section 18-1-102, MCA, is applied only to an invitation for bid for supplies or an invitation for bid for non-construction services for public works as defined in section 18-2-401(9), MCA, and only in the event that federal funds are not involved in the anticipated purchase. In addition, it is only applied if it will benefit a Montana resident bidder as defined in section 18-1-103, MCA. See ARM 2.5.408.

Scoring on Stated Criteria

If the **Request for Proposal** process is used, the award must be made to the responsible and responsive offeror whose proposal best meets the evaluation criteria. Other factors may not be used in the evaluation.

After receipt and opening, bids and proposals must be examined for several considerations including responsiveness, qualifications, competitiveness, suitability of the product or service offered, cost and economy for the taxpayer, ability of the vendor to perform, and so on. Specific evaluation factors can vary considerably according to the kind, nature, and intended use of the products.

Resources for Evaluation

Authorized Purchasing Personnel are available to assist in the development of RFP's. Contact your authorized purchasing officer when you first know that you will be procuring services with a RFP.

The State Procurement Bureau has several resources available to assist evaluation committees in their task of evaluating and scoring the proposals received in response to a Request for Proposal. The following information is available on our website at <http://gsd.mt.gov/procurement/>

1. **RFP Evaluation Process – Instructions.** This document provides direction to the agency RFP evaluation committee.
2. **RFP Sample Scoring Guide.** This document provides a sample method for scoring the evaluation criteria set out in the RFP.
3. **Non-Conflict of Interest Statement.** Each member of an RFP evaluation committee is required to review the RFPs received and determine if they have a conflict of interest. This form must be signed prior to the evaluation of the RFP. It becomes a permanent part of RFP solicitation file.
4. **Confidentiality Statement.** This form was developed for use by evaluation committee members when RFPs are received which contain the confidential information protected under sections 18-4-304 and 18-4-308, MCA. It provides a means to notify the committee members of their responsibility to keep the information confidential and the consequences if they do not.
5. **Attendance Sheet.** This sheet is provided for use when an evaluation committee meets to evaluate the proposals. It should be signed by all members of the evaluation committee.

Other persons attending the meeting may sign the sheet if they wish, but they are not required to sign it.

6. **Reference Check Questions.** Often an evaluation committee will decide to check references for its top scoring offeror. This form provides some basic questions that may be asked of an offeror's references. The SPB does not recommend numerically scoring references. Instead, the SPB recommends that references be scored on a pass/fail basis. Language in the model RFP provides that negative references may be grounds for proposal disqualification.

Contract Formation

The CSD Contracts and Purchasing Officer has provided a sample contract. It was developed by the Department of Administration, GSD in conjunction with the Risk Management and Tort Defense Division and includes optional as well as required paragraphs that include: parties, scope of work, consideration and payment, insurance, agency liaison, etc. It includes signature lines for the agency, contractor, as well as approval blocks for legal counsel and DMA authorized purchasing personnel.

The purpose of including a sample contract with an RFP is to alert the vendor to the contract language that he/she will eventually be required to conform to and to give the vendor an opportunity to comment on possible contract revisions prior to being bound by the contract. The recommends that agencies utilize the sample contract format provided with the model RFP. It provides a basic format which can be expanded to include a definition of the services to be provided and required performance standards.

NOTE: Before awarding a bid which involves Federal Funding you must check the Debarred Vendors list located at <http://epls.arnet.gov/>.

RECEIPT AND INSPECTION OF SUPPLIES

“let the buyer beware.” This caveat came about not only because of inadvertent mistakes, but because of unscrupulous vendors who used system weakness to their advantage.

All state agencies must inspect and receive supplies that are shipped directly to them. It is not uncommon to receive supplies not meeting specifications, e.g., three-gallon containers furnished in lieu of five-gallon containers specified, and equipment being dropped off when the contract calls for installation, etc. The guidelines listed below will provide a basis for any agency inspection/receiving program.

When supplies are delivered, the receiving agency generally does not have the time to inspect all supplies while the delivery person is there, nor is it absolutely necessary. There are two steps involved in inspecting supplies: the external inspection and the internal inspection.

External Inspection

1. When supplies are delivered to DMA, the person receiving the supplies should carefully check the external appearance of each container or item for signs of damage. Any scratches, dents, water marks, etc., should be noted on the delivery slip. This is the only occasion the agency will have to report external shipping damages.
2. The person receiving the supplies should also note the quantity of items or containers received. The delivery slip should be signed only for the number of items actually received from the carrier.
3. All discrepancies should be noted on the delivery slip, signed, and dated.

Internal Inspection

Once supplies have been received and externally checked, an internal inspection should be performed as soon as possible.

1. **Packing Slips.** Each container or shipment should contain a shipping document supplied by the manufacturer or vendor. The shipping document should list all the items and quantities shipped. The shipping document should be checked against the items received by type and quantity. Any discrepancies, defects or damages should be noted on the shipping document and the inspector should initial and date the shipping document.
2. **Checking Receipts Against Orders.** When all items have been checked against the shipping document, the inspector should check it against what was ordered on the purchase order. The inspector should check that the items delivered were actually ordered and meet the specifications as listed on the purchase order. The inspector may need assistance in determining if the supplies meet specifications from a person who is familiar with those supplies.
3. **Problems.** After inspection, any problems discovered should be referred to the vendor. Department of Military Affairs may wish to contact a vendor by phone, but a written statement of the problem should always be sent to the vendor with a copy sent to the Authorized Purchasing Personnel. A copy of that document and any other pertinent documents should be retained by the DMA.

RETENTION SCHEDULES

Section 18-4-126, MCA, requires that all procurement records be retained, managed, and disposed of in accordance with the state records management program, found in Title 2, chapter 6, MCA. Each state agency must retain the written procurement documentation for the procurements it conducts and administers. Authorized Purchasing Personnel retains procurement records for the procurements it conducts and administers. The Secretary of State's Records Management Bureau has established the following retention schedule for its procurement records.

DOCUMENT	RETENTION SCHEDULE
Solicitation Files: RFPs, IFBs	1 year after termination, but no less than 4 years.
Purchase Order Purchase Order Adjustment	4 years after termination.
Contract	8 years after termination.
Sole Source Files	4 years after termination.
Vendor Contract	4 years after termination.
Insurance/Workers' Compensation Certificates	Until contract termination.
Contract Security (Surety bond only)	8 years after contract termination.

PUBLIC ACCESS TO DOCUMENTS

State law defines procurement information as a public writing that must be available to the public for viewing and copying. Mont. Code Ann. § 18-4-126. However, certain procurement items are constitutionally protected and not subjected to public disclosure. These items are set out in ARM 18-4-304, Competitive Sealed Proposals, and are as follows:

1. Legitimate trade secrets as defined under the Uniform Trade Secrets Act, Title 30, chapter 14, part 4, MCA.
2. Matters involving individual safety as determined by Department of Administration.
3. Information requested by the Department of Administration to establish vendor responsibility unless prior written consent has been given by the vendor.
4. Other constitutional protections.

After the deadline for receipt of a request for proposal, the procurement official must open and inspect the proposals for material not available for public disclosure. The material must be removed from the copy of the proposal to be made available for public inspection.

After an RFP evaluation committee has completed its evaluation of a proposal containing trade secret material, the trade secret material must be collected from the committee members and shredded. One original proposal containing the trade secret material must be retained and stored according to the RFP solicitation file records retention schedule.

SURPLUS PROPERTY MANAGEMENT

Overview

Effectively managing the state's surplus property is one means of ensuring that tax dollars spent in the past will continue to work for the State in the future. The Property and Supply Bureau's Surplus Property program provides for the centralized acquisition and disposition of surplus property for state agencies, local units of government, other tax supported agencies or political subdivision/programs of the State, and the public.

Getting the maximum use from a piece of property and recovering any residual value at the time of disposal are the goals of the Surplus Property program. Specifically the program objectives are to:

1. control state surplus property;
2. remove unused surplus property from storage;
3. help control the State's investment in property;
4. control waste and misuse of state property;
5. maximize utilization of state property; and
6. realize the maximum monetary return from the sale of state property.

Surplus Procedures for Division/Programs

DMA division/programs may notify the Authorized Purchasing Personnel of their intent to surplus property by written notification or e-mail notification. This notification initiates the accounting entries to remove property from the SABHRS system.

Once notification is received, the Authorized Purchasing Personnel will contact the Property and Supply Bureau and they will make a determination as to the disposition of the property. At that time the Bureau will assume responsibility for the inventory, accounting, and final disposition of the property.

Disposition of State Property

The Property and Supply Bureau will determine the most advantageous method of disposing of state surplus property. Methods utilized are:

Transfer between State Agencies

When it is determined by the DMA that direct transfer of surplus property from DMA to another agency is in the best interest of the State, this method of disposition is authorized.

Normally, these transfers occur when agencies are co-located or the property is a specialized item which has limited use within state government.

The physical transfer of the property will not take place until agreement is reached by both the possessing agency and the receiving agency of the transfer. Both agencies must assume responsibility for the adjustment to their individual inventories for transfer of property.

The Property and Supply Bureau does not charge an administrative fee for the transfer of surplus property between state agencies.

Trade-in of Surplus Property

On a case-by-case basis, trade-ins may be approved. If a DMA division/program wishes to trade-in surplus items it must be processed through CSD Contracts and Purchasing Officer. Once trade in is authorized and it is determined by the Property and Supply Bureau to be of greater benefit to the State than any other method of disposition, then the Bureau will authorize the trade-in of surplus personal property. Trade-ins will not be approved for vehicles.

BUREAU APPROVAL IS NOT NEEDED TO TRADE IN PHOTOCOPIERS.

Division/programs requesting approval to trade-in property must provide an explanation on the trade-in request notification why this will benefit the agency and the State of Montana. Division/programs must also provide copies of the trade-in quotes from the vendors prior to the item being traded in must be provided to the CSD Contracts and Purchasing Officer who will process the procurement through the surplus property bureau.

Damaged or Destroyed Surplus Property

In the case of damaged or destroyed surplus property, the DMA should notify the Property and Supply Bureau of the items involved. Bureau staff will inspect the items to determine if there is any salvage value.

The Bureau will sell these items if they are determined to have value. If it is determined there is no value, either as salvage or spare parts, the Bureau will authorize disposition of the property by abandonment or destruction. It is the agency's responsibility to destroy and remove property authorized for destruction.

Salvage or Scrap Surplus Property

Certain items which are declared surplus will have no obvious value and should be disposed of as salvage or scrap materials. The same procedures as outlined in the previous section for damaged or destroyed property should be followed for the disposition of these items. See Section 1-0750.90 of this chapter concerning the Bureau's recycling program.

Cannibalization of Surplus Property

Requests for cannibalization of DMA property should be forwarded to the Property and Supply Bureau by e-mail or memo with complete information regarding equipment to be cannibalized and parts to be removed. When it is established that cannibalization is in the best interest of the State, the Bureau will grant authorization. The property may then be dismantled, serviceable parts removed, and residue scrapped or disposed of as outlined in the section above for damaged or destroyed property.

Rental, Lease or Lease/Purchase of Surplus Property

Under certain conditions, the Property and Supply Bureau may negotiate with entities of state and local governments for the rental, lease or lease/purchase of state surplus property. Agencies should consider this option when equipment and materials are needed for projects of relatively short duration.

The lease/purchase option would also apply to costly items which an agency could not purchase outright, but could afford under the lease/purchase arrangement. Since several options exist under this category, requests for this service are handled on an individual basis by the Bureau.

Sale of Surplus Property

The Property and Supply Bureau may dispose of surplus property through sales to governmental entities and the general public. The Bureau will determine the type and frequency of sale to ensure maximum financial returns from the sale of the property. If items are found to be specialized or unusable, the Bureau will sell the items directly to the general public by sales, auctions, or bid solicitation. The Property and Supply Bureau deducts an administrative fee from the sale value of each item sold. This administrative fee pays for the operational expenses of the Surplus Property program.

In most cases, if a duplicate request for surplus property is received, the item is offered for sale or transfer according to the following priorities:

1. State agencies (including state universities);
2. Tax-supported agencies, counties, municipalities, or other political subdivision/programs of the State of Montana;
3. Other tax-supported educational agencies (including community colleges);
4. Non-profit health and educational institutions;
5. Sale to the general public.

Delivering and Receiving Surplus Property

The DMA will advise the Property and Supply Bureau of the location to pick-up the surplus property. If at all possible, the agency should store items in one location. Agencies should identify each item using indelible ink or a securely attached identification tag. If an agency prefers to deliver the surplus property, the agency must notify the Bureau before delivery.

The Bureau is not accountable for property delivered without authorization at times other than those agreed upon by the Bureau and the delivering agency. Transportation costs for the property transferred between state agencies by the Bureau are the responsibility of the receiving agency.

Fee Structure

The following fee structure applies to the sale of all state surplus property:

1. Sale value of \$500.00 or less - 100% of sale value retained by the program.

2. All other sales with a value over \$500.01 will be charged a flat \$500.00.

Transfer Fee or Trade-In Fee

Under the Bureau's revised rate schedule, agencies will **not** be charged a fee for transfers or trade-ins.

Reimbursement

Special revenue, auxiliary or proprietary funds are allowed to receive refunds, less the administrative fee, from the sale of surplus property. (See section 1-0719.60 for administrative fee structure.) Proceeds from equipment originally purchased by the general fund or federal funds will be deposited into the general fund, less the administrative fee, unless there is specific language in a contract or grant requiring funding to be returned to either the using agency or the federal government. The notification to the Property and Supply Bureau must indicate the type of funding.

When an agency requests a specific monetary return on an item, that dollar amount should be listed on the surplus notification. The Property and Supply Bureau will attempt to realize that amount on the sale providing it is consistent with the fair market value for the item. If the Bureau is not successful in selling the item for that amount, the agency will be notified and alternate arrangements will be made.

When the Bureau collects the money due from the sale of surplus property, it will initiate an Interunit Journal to the agency previously owning the property or the general fund, whichever is applicable, less the administrative fee.

Preparation of Surplus Notification

Property Number:	Item property number, if available.
Agency Name:	Name of agency generating the notification.
Agency Requested Action:	Requested disposition of the property, i.e., pick-up, sell, transfer,.
Location of Property:	Exact physical location/address of property. If the Property and Supply Bureau authorizes the destruction and disposal of property, the signature of the agency official who oversaw the destruction, and the signature of one witness is required.
Contact Person:	Person with specific information concerning the property being declared surplus (condition, value, location, access, etc.). Please include phone #
Funding:	List the funding source used to acquire the property: special revenue, auxiliary, proprietary or general fund.
Remarks:	If the agency has any additional comments concerning the property, please note this.
NOTE: Agencies reporting rolling stock (i.e., motor vehicles, road construction equipment, materials handling equipment, etc.) should include the following information as an attachment to the surplus notification:	
<ol style="list-style-type: none">1. year and make;2. model, body style, seats or capacity, number of engine cylinders, engine type (gas or diesel);3. serial and license numbers;4. mileage;5. date of availability for disposal;	

6. special equipment;
7. condition statement (i.e., parts of drive train or other components missing, body damage, tires worn, etc.).

The Property and Supply Bureau will review the surplus notification for completeness and will respond back to the declaring agency by either changing the status in SABHRS or returning a copy of the memo or e-mail notification with the property's disposition noted.

Recycling Program

Agencies throughout the state may utilize the recycling programs for oil and scrap metal by contacting the Property and Supply Bureau at (406) 495-6000 or 1-800-896-4481. Private vendors under contract with the Bureau travel throughout the state to pick-up accumulated recyclables.

Note: Hazardous waste is not accepted by the state's recycling program

PURCHASING FROM PRINT SERVICES

Print Services of the General Services Division operates a printing program on behalf of the State and has the exclusive authority to contract for all printing. By centralizing the procurement of printing, agencies benefit both from the cost savings and from the professional management of their printing needs. Each year state agencies submit nearly 15,000 printing requests and spend approximately \$5 million on printing services. Print Services provides this service by operating a central duplicating facility, three quick copy centers and procuring printing from the commercial sector.

Nearly 65% of the printing expenditures are procured through commercial vendors. Print Services determines whether to produce internally or procure commercially based on many factors including complexity, delivery and cost.

All requisitions for printing intended for commercial procurement should be submitted in writing to the agency Authorized Purchasing Personnel. The requisition should include all specifications necessary to describe the desired final product.

Actual samples of printed products are extremely valuable in the specification writing process and should be included whenever available.

In-House or Contracted Printing?

Print Services will determine, based on cost, capability, and delivery time, whether individual orders will be procured commercially or produced internally.

Products routinely procured commercially include:

Tabloids	Continuous Forms (pin feed)
Magazines	Continuous Labels (pin feed)
Ring Binders	Data Mailers
Index Tab Dividers	Snap-Apart Forms (perforated stub)
Printed File Folders	Tickets
Portfolio Covers	Carbon-interleaved Forms
Decals/Labels	Booked Forms
Specialty Envelopes	Case Bound Books
Foil Embossing	Multi-Color Publications
Die Cutting	Large Quantity Publications
Warrants and Checks	Ledgers
Diplomas and Diploma Covers	Pressure Seal Forms
Special Stock Publications (i.e., newsprint, enamel stocks, etc.)	

Print Services will prepare the final specifications and distribute Request for Quote (RFQ) forms to the bidders. The agency should review the RFQ for accuracy and completeness. Failure to perform this inspection could result in delays in the award of the contract or in costly changes after the award.

After opening bids at the established time and date, Print Services will evaluate the results and award the contract. A purchase order (PO) will be issued to the successful vendor.

The PO should be inspected by the agency and errors or omissions noted to Print Services.

Printing Delivery Schedules

The bidding process requires that Print Services analyze, research, and evaluate agency specifications, rewrite specifications into printing terminology, and prepare, print, and distribute RFQs to bidders. Subsequently, Print Services must also evaluate bids, and prepare and distribute POs. To do this takes a length of time proportionate to the complexity of the printing ordered. Simple work (flat forms, brochures, small quantities, etc.) normally requires 7 to 10 days for the bid process. More complex work (4 multi-color, continuous forms, specialty items, etc.) normally requires 14 to 21 days to bid.

The printing process, as well, requires a length of time equal to the project complexity, plus consideration of vendor scheduling and workloads. In order to maintain the State's history of low bids and to avoid bids based on overtime charges, all printing contracts should allow for at least four weeks to complete unless an urgent need requires otherwise. Agencies should expect to pay higher prices for shorter delivery schedules. In addition, agencies should allow more time (six to eight weeks) for specialty items such as custom envelopes, multi-color process, data mailers, checks, etc.

Printing Term Contracts

Annually, Print Services issues term contracts for agency use. These include:

- Transportation Purchase Order Books (TPOs)
- Envelopes*
- Continuous Letterhead
- Two Color Letterhead
- Color Photocopying

* Standard envelope order forms are available from the Property and Supply Bureau.

Overruns and Underruns

Printing is unlike most commodity purchases made by the State in that each printing order requires the manufacturing of a custom-made product. The printing process itself has many steps and there is a risk of spoilage at each step. For that reason it is a stated "trade custom" of the industry to allow for delivery of a final product quantity at $\pm 5\%$ of the total. Print Services adheres to this "trade custom" unless noted otherwise on the RFQ. Agencies are required to pay for up to 5% overrun at the established unit price and, likewise, may deduct up to 5% for underruns.

An agency may request a more severely limited over/under run or even exact quantities, however, a higher per unit cost for the order should be expected.

Proofs and Proofreading

Upon request of the DMA a proof shall be provided by contract printers for any item on a PO that requires any amount of composition, artwork, or page make-up by the printer.

Corrections are to be made on that proof, signed by a representative of the ordering agency and returned to the vendor, marked "O.K." or "O.K. with corrections." If revised proofs are required, the written request for such shall be made at the time the initial proof is returned.

Proofreading is the responsibility of the customer. Neither Print Services nor the printer can be held responsible for errors if the work is printed per the customer's approved proof or if changes are communicated verbally. The printer shall be held responsible in the event that errors occur on final printed matter, if such errors were not corrected as per customer's individual proof notations.

The proofreading responsibility is not limited to line or word changes from preprinted original copy, but includes all copy submitted for that purchase order item. However, the proofing stage is not the place to be making revisions to the copy submitted. Changes which differ from the original submitted copy are considered Customer Alterations and are a chargeable item.

Forms should include a revision date, i.e., (Rev. 1/01). When changing or updating forms, the revision date should also be changed so the latest version is easily recognized.

Auditing, Billing, and Payment

Upon receipt of printed goods, the agency should inspect the delivery--noting actual counts, delivery damage, delivery date, and deviation from the PO specifications. If there are problems with the project, Print Services should be notified immediately.

Print Services will audit the vendor invoice against the product and PO to correct mathematical errors or any deviation from the specifications. The agency will be billed with payment due upon receipt to Print Services. Print Services will initiate payment to the vendor.

A fee is levied against each PO issued to cover the costs of duplicating and mailing the RFQ. Additionally, because Print Services is a proprietary operation, the costs of purchasing and auditing are recovered through a user fee.

PRINT SERVICES INTERNAL SERVICES

For a more detailed description of internal services and procedures, refer to the "Getting it Printed" Manual available from Print Services.

Print Services operates a central duplicating facility and three quick copy centers. The locations are:

Central Duplicating Facility
Second Floor, Old Liquor Warehouse
920 Front Street

Metcalf Quick Copy Center
First Floor, Metcalf Building
1520 East Sixth Avenue

PHHS Quick Copy Center
Room 5, PHHS Building
111 North Sanders

Capitol Quick Copy Center
Room 61, State Capitol Building

Examples of services provided internally by Print Services include:

Pre-Press Services

Layout and Design
Illustrative Art
Desktop Publishing
Line Negatives
Film Positives
Diffusion Transfers (PMTs)
Contact Prints

Printing and Bindery Services

Duplicating, Cutting, Padding
Collating Tabbing, Labeling
Stapling, Scoring, Perforating
Saddle Stitching
Perfect Binding
Tape Binding
Folding, Punching
Shrink Wrapping, Numbering

Ordering Internal Printing

For most simple duplicating, binding and quick copy work from Print Services, DMA only needs to fill out a requisition (Form ADM-PGD 103) and send it, along with the job originals, to Print Services. Print Services will perform the work according to the instructions the agency records on the requisition.

For work which is more complex or involves graphic arts and/or desktop publishing, agencies should meet with Print Services staff to ensure that job specifications are fully understood and the desired product is attained.

Paper Stock / Recycled Paper Requirements

Print Services carries a wide assortment of paper stocks in many weights, textures and colors. Section 75-10-806, MCA, requires the use of recycled paper and paper products. It is the goal of the State that 95% of the paper and paper products used shall incorporate post consumer waste in its content. To meet this goal, the Print Services is utilizing recycled paper whenever available.

Senate Joint Resolution No. 8, passed by the 53rd Legislature, requests the use of acid-free, alkaline based, or permanent paper for state publications of enduring value. The State Librarian, the Montana Historical Society Librarian, and the State Law Librarian have expertise in the types of documents published by the State that should be prepared using durable paper. If your document is a publication of enduring value and requires the use of durable paper, this must be specified in the printing request.

PHOTOCOPY POOL

Section 2-17-301(1), MCA, gives the Department of Administration the responsibility of administering the State Photocopy Pool. This responsibility is assigned to Print Services. Agencies may follow one of two courses of action in obtaining a copier. The agency may obtain its own copier through term contract procedures or the agency may elect to become part of the State Photocopy Pool.

There are several advantages to belonging to the Pool. As Pool administrator, Print Services assumes the responsibility of analyzing agency copier requirements, writing equipment and service specifications, dealing with vendors, arranging machine placement, handling all trouble calls and maintaining equipment histories and records.

By utilizing the Pool, the DMA does not have to deal with the problems and costs of machine ownership. Concerns such as obsolescence, depreciation, and property inventory become the responsibility of Print Services and the vendor. DMA simply buys copies from Print Services at an established price which includes the cost of Pool administration.

Print Services Responsibilities for the Photocopy Pool

In managing the photocopy pool, Print Services accepts the following responsibilities:

1. Analyzes agency needs to place the most cost effective and reliable equipment in the agency.
2. Arranges for the placement of all copiers.
3. Assumes all responsibility for dealing with vendors and service.
4. Submits all meter readings to vendors.
5. Handles all accounting and billing procedures.
6. Maintains all service records.
7. Replaces worn out or obsolete equipment as needed.

Agency Responsibilities for the Photocopy Pool

To participate in the Photocopy Pool, agencies are responsible for:

1. Providing placement locality, proper electrical wiring and receptacles.
2. Providing key operators (training arranged by Print Services).
3. Submitting monthly meter readings to Print Services.
4. Ordering and replacing supplies (paper, toner, etc.) as necessary.
5. Properly caring for the equipment and preventing abuses.

Photocopy vs. Duplicate

Agencies are encouraged to use their photocopiers for 50 copies or less of single page documents and 20 copies or less of multiple page documents. These numbers may vary depending upon your particular photocopier and immediate needs.

Agencies should establish guidelines on the use of their photocopier. Some of the factors in establishing guidelines should be machine capabilities, turn-around requirements, staff time and cost.

PRINTING EQUIPMENT ACQUISITIONS

It is the policy of the State to centralize printing operations under the control of the Department of Administration. Therefore, by statute, the acquisition of all printing and duplicating equipment in the capitol area must be approved by Print Services.

The State Procurement Bureau cannot process a requisition without this approval. The justification must be specific and include detailed financial information on the cost benefits to the State. The acquisition of printing equipment by agencies must be shown to be in the State's best interest before approval will be granted.

PURCHASING DOCUMENTS



The purchasing process relies on a documented line of communication, or paper trail, beginning with the Field Requisition, to the Invitation for Bid, purchase order, invoice, contract, adjustments and addendums. The following documents are available on the Dept of Military Affairs web page:

DMA PROCUREMENT FORMS

Field Requisition (**DMA-001**)
Procurement File (**DMA-002**)
Limited Solicitation Written and Phone (**DMA-003**)
Invitation For Bid Request – IFB (**DMA-004**)
Addendum to IFB (**DMA-005**)
Sign in Sheet for Procurement Meetings (**DMA-006**)
Bid Tabulation Sheet (**DMA-007**)
Purchase Order, DMA (**DMA-008**)
Purchase Order Adjustment (POA) (**DMA-009**)
Request For Proposal (RFP) Internal and DOA(**DMA-010**)
Addendum to RFP (**DMA-011**)
Contract Routing Log (**DMA-012**)
Standard Personal Service Contract (PSC) (**DMA-013**)
Addendum to PSC (**DMA-014**)
Exigency Letter Sample (**DMA-015**)
Sole Source (**DMA-016**)
Sole Brand (**DMA-017**)
Request for Document Notice (**DMA-018**)
Declaration Form – Evaluation (**DMA-019**)
Standard Terms (**DMA-020**)

DMA employees are required to use the above forms for procurement requirements. There are many other documents commonly used in the procurement process. If you have a need for a document contact your purchasing official for assistance, they may have a form template available for you.